

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

GINA BISIGNANO

Defendant.

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No.: 21-cr-036 (CJN)

**DEFENDANT GINA BISIGNANO’S PARTIAL OPPOSITION TO THE
GOVERNMENT’S MOTION FOR RULING THAT DEFENDANT BREACHED THE
PLEA AGREEMENT**

Defendant Gina M. Bisignano, by and through her undersigned counsel of record, respectfully partially opposes the Government’s Motion for Ruling that Defendant Breached the Plea Agreement (Dkt. 98). In support of this opposition, Ms. Bisignano sets forth the following facts and argument.

I. Relevant Procedural and Factual History

On January 29, 2021, Ms. Bisignano was charged, via indictment, with seven counts of criminal wrongdoing associated with the events of January 6, 2021 at the United States Capitol. On August 4, 2021, the government filed a plea agreement in this matter whereby Ms. Bisignano pled guilty to a series of counts, including Count One charging a violation of 18 U.S.C. § 1512(c)(2). This Court accepted Ms. Bisignano’s guilty pleas on the same date. Dkt. Entry 8/4/2021.

In March 2022, in separate prosecutions, this Court granted defendant Miller’s and Fischer’s motions to dismiss pending section 1512 charges finding that their alleged actions on January 6, 2021 did not fall within the scope of section 1512. *United States v. Miller*, 21-CR-

119, Dkt. 72; *United States v. Fischer*, 21-CR-234, Dkt. 64. The Court subsequently granted a similar motion in *United States v. Lang*, 21-CR-53, 6/7/22 minute order.

On May 20, 2022, Ms. Bisignano, via prior counsel Chuck Peruto, moved to withdraw her guilty plea with respect to Count One (the section 1512 charge). Dkt. 51. On July 12, 2022, the Court held a hearing on the matter at which time the government took the position that Ms. Bisignano's motion to withdraw her guilty plea put her in breach of her plea agreement. Dkt. 61 at 8: 17-18 (AUSA Paschall: "We take the position that she is in breach now...."). With the parties agreement, the Court held the motion in abeyance while the Court of Appeals reviewed this Court's decision in *Fischer/Miller/Lang*. Dkt. 61 at 16:21-24.

On January 19, 2023, AUSA Paschall, AUSA Mariano, and multiple FBI agents met with Ms. Bisignano. At that time they served her with a subpoena to testify in *United States v. Badalian*, 21-CR-246-2, interviewed her about several topics, and reviewed exhibits from a prior grand jury proceeding in which she participated. The apparent purpose of this meeting was to prepare Ms. Bisignano to testify at the upcoming trial. The FBI memo¹ memorializing this meeting does not indicate that Ms. Bisignano was advised that the government no longer was bound by the previously filed plea agreement, including the cooperation section.

On February 20, 2023, AUSA Paschall and AUSA Mariano, along with FBI agents, again met with Ms. Bisignano and presented her with several exhibits for the apparent purpose of again preparing for the upcoming trial in *United States v. Badalian*, 21-CR-246-2. The FBI memo memorializing this meeting does not indicate that Ms. Bisignano was advised that the

¹ All discovery in this case has been produced pursuant to a protective order. Dkt. 25. If it would be helpful to the Court to review copies of these memos, the defense will file them under seal pursuant to the protective order.

government no longer was bound by the previously filed plea agreement, including the cooperation section.

On February 26, 2023, AUSA Paschall and AUSA Mariano, with an FBI presence, met with Ms. Bisignano at the Department of Justice in Washington, D.C., for the purpose of preparing her to testify in the upcoming trial in *United States v. Badalian*, 21-CR-246-2. Ms. Bisignano's lawyer was not present during this meeting. During that meeting, Ms. Bisignano reviewed several exhibits with the government attorneys, and apparently discussed a conversation Ms. Bisignano had with her then-attorney Mr. Peruto wherein she explained to government counsel that she "spoke to her lawyer and he advised her to admit to guilt on some of her charges but there is still a charge against her which is out on appeal, and she should not admit guilt to that charge at this time." The FBI memorandum does not state that Ms. Bisignano was advised that the government would not be abiding by the plea agreement.

On March 1, 2023, the government called Ms. Bisignano to testify in *United States v. Badalian*, 21-CR-246-2. Ex. A.² During her testimony, government counsel asked Ms. Bisignano about the status of the prosecution against her. *Id.* at 304. Ms. Bisignano explained that she had pled guilty to some charges and moved to withdraw her plea to the 18 U.S.C. § 1512 count. Judge Amy Berman Jackson, expressing some confusion about the status of Ms. Bisignano's case, inquired of government counsel: "Is there a cooperation aspect to the plea agreement?" *Id.* at 306:6-7. To which the government responded "There is, your honor." *Id.* at 306:8. Returning to questioning Ms. Bisignano, government counsel inquired: "as part of that plea agreement, have you agreed to cooperate with the United States in relevant matters?" *Id.* at

² The transcript in this matter is publicly available via pacer, and therefore is being attached as an exhibit to this opposition.

306:22-23, to which Ms. Bisignano responded in the affirmative. *Id.* at 306:24. Government counsel continued: “And you understand that by cooperating with the United States you may be in a position to help yourself with sentencing, right?” *Id.* at 307:6-8. Ms. Bisignano again responded in the affirmative. *Id.* at 307:9.

On cross-examination, Ms. Bisignano was further asked about her cooperation. Defense counsel asked what sentence Ms. Bisignano believed she would receive without cooperation, and she stated that she thought she would go to jail for 41 months. *Id.* at 365:1-5. Counsel then asked: “So when you come and you testify, if the government thinks you gave them substantial assistance, then they will recommend to your sentencing judge something less than the 41 months. Is that your understanding?” *Id.* at 365:7-10. Ms. Bisignano again responded in the affirmative. *Id.* at 365:11.

On April 7, 2023, the Court of Appeals issued its decision in *United States v. Fischer*, 64 F.4th 329 (D.C. Cir. 2023), reversing this Court’s decisions in *Fischer/Miller/Lang*. On May 4, 2023, the Court granted Ms. Bisignano’s motion to withdraw her guilty plea as to Count One and subsequently granted the defense motion for new counsel and appointed undersigned counsel on July 5, 2023.

On June 28, 2024, the Supreme Court issued its decision in *Fischer v. United States*, 603 U.S. ___, 2024 WL 3208034 (2024), vacating the D.C. Circuit’s opinion and concluding, consistent with this Court’s prior orders, that a violation of section 1512(c)(2) required proof that the defendant interfered with the use in an official proceeding of records, documents, objects, or other things used in the proceeding. *Id.* at *10. The parties subsequently moved to dismiss Count One of the Indictment filed against Ms. Bisignano. Dkt. 94 and 97.

The government has now moved the Court to find Ms. Bisignano in breach of her plea agreement. Dkt. 98.

II. Standard of Review

The parties agree that plea agreements are interpreted according to contract law; each party to the agreement should receive the benefit of its bargain. Dkt. 98 at 3; *see United States v. Chase*, 466 F.3d 310, 314 (4th Cir.2006). However, while contract law is useful in interpreting plea agreements, plea agreements are not contracts and contract doctrines do not always apply to plea agreements. *United States v. Olsen*, 920 F.2d 538, 541 (8th Cir. 1990); *United States v. Zweber*, 913 F.2d 705, 711 (9th Cir. 1990). Indeed, in the context of plea agreements, due process trumps contract law. *See United States v. Pelletier*, 898 F.2d 297 (2d Cir. 1990).

III. Argument

Section 13 of the plea agreement (Dkt. 39) filed on August 4, 2021 states: “Your client understands and agrees that, if after entering this Agreement, your client fails specifically to perform or to fulfill completely each and every one of your client’s obligations under this Agreement, or engages in any criminal activity prior to sentencing, your client will have breached this Agreement.”

Ms. Bisignano does not contest that her motion to withdraw her guilty plea as to Count 1 was, indeed, a breach of her plea agreement. However, in response to Ms. Bisignano’s breach, the government elected to continue to accept the plea agreement’s benefits, and as such has waived its right to complain of Ms. Bisignano’s breach.

A. Applicable Law

Counsel is unaware of a decision from the D.C. Circuit that resolves this matter. However *United States v. Vogt*, 901 F.2d 100 (8th Cir. 1990), presented a similar issue. There,

defendant Vogt entered into a plea agreement with the government whereby he would plead guilty to various reduced drug offenses in exchange for his cooperation with an on-going drug tracking investigation. The plea agreement further required that Vogt provide complete and accurate information about his own criminal activity. During the course of his cooperation with the government, Vogt failed to disclose a series of illegal activities. When the government confronted Vogt about his undisclosed criminal conduct, Vogt acknowledged his lack of candor. Nevertheless, the government called Vogt to testify before a grand jury three times and actually had him testify twice. After Vogt's cooperation had been completed, the government moved the district court to set aside Vogt's plea agreement. The district court concluded that the government waived the right to complain of Vogt's material breach "by continuing to solicit and accept the benefit of the bargain after it learned of the breach." *Id.* at 102. The Eighth Circuit affirmed, finding that "the government's delay in complaining of Vogt's breach and its continued acceptance of the plea agreement's benefits" were sufficient to establish that the government waived its right to complain of Vogt's breach. *Id.* at 102.

Circuit courts have recognized the significance of the Eighth Circuit's reasoning in *Vogt*. See, e.g., *United States v. Melancon*, 972 F.2d 566, 568 (5th Cir. 1992); *United States v. Levi*, 313 F. App'x 571, 573 (4th Cir. 2008) ("[T]he Government's failure to seek to be relieved of its responsibilities under the plea agreement until after the co-defendants' trials were completed did not constitute waiver of the breach, as the Government received no further performance by Levi during this period." (citing *Vogt*)).

The Second Circuit encountered a similar but distinct issue in *United States v. Hon*, 17 F.3d 21 (2d Cir. 1994). There, defendants Hon and Tse were indicted for various drug offenses. Hon entered into a cooperation plea agreement with the government whereby he would provide

complete and accurate information including possibly testifying against Tse, and in exchange the government would, amongst other things, moved to reduce his sentence pursuant to Section 5K1.1 of the United States Sentencing Guidelines. *Id.* at 24. Tse then proceeded to trial, and Hon was called as a government witness. Hon's testimony, however, did not go as planned. Out of the presence of the jury, Hon explained that he had been coerced into accepting the plea agreement. *Id.* at 24. The court recessed. Over the next few days, Hon stated that he wanted to withdraw from the cooperation plea agreement. Hon was advised that if he withdrew, the government would treat him as a hostile witness. Hon was further advised that if he asserted his Fifth Amendment rights, the government would obtain an immunity order compelling Hon to testify. The government then did in fact obtain an order compelling Hon to testify under immunity. Upon being informed of the order, Hon stated that he would testify pursuant to the plea agreement, at which time the government informed Hon that he was in breach of the agreement and that the government would not honor its obligations under the agreement. *Id.* When trial resumed and Hon was called to testify, Hon did not assert his Fifth Amendment rights and voluntarily testified. During his direct examination, Hon acknowledged that the government's attorneys told him that they considered the cooperation agreement invalid. *Id.* at 25. Two months after the trial, the government sent Hon a letter stating that they would not honor the cooperation agreement. In response, Hon moved the court for an order compelling the government to honor its obligations under the agreement. *Id.* The court did not expressly rule on Hon's motion, but the government did not move for a downward departure and the court did not compel otherwise. *Id.*

On appeal, Hon argued that he hadn't breached the plea agreement, and therefore the government was duty bound to move for a downward departure. The Second Circuit explained:

Hon's argument is based on the mistaken premise that he fulfilled his entire obligation to the government by testifying against Tse. Hon's testimony, however, was only one aspect of the cooperation agreement. He was also obliged to "cooperate fully" with the government. Although Hon's trial testimony was consistent with the information he had previously given the government, he had forced the government to obtain an immunity order, delayed the trial and required the government to call Hon after the hiatus without preparation. Hon's counsel argues to us that the government's inability to prepare was self-inflicted, since counsel had indicated on the afternoon of April 16 that Hon was willing to testify. But by this time, the government had already decided that the cooperation agreement had been breached, a decision that we regard as justifiable. In light of the delay, inconvenience and uncertainty Hon caused, the government could reasonably have determined that Hon breached his duty to "cooperate fully" under the agreement.

Id. at 25. Further, citing *Vogt*, the court explained that the government had shown good faith by immediately indicating that it did not intend to honor the agreement, rather than inducing Hon to testify and only later indicating that it would not honor the agreement. *Id.* at 26.

B. The government has waived Ms. Bisignano's breach

After Ms. Bisignano breached her plea agreement on May 20, 2022, government counsel and FBI agents met with Ms. Bisignano on January 19, 2023, February 20, 2023, February 26, 2023, and March 1, 2023. Ms. Bisignano's then-counsel Mr. Peruto was not present for some of these meetings. And documentation of these meetings provided to undersigned counsel in discovery make no mention of any conversation the government had with Ms. Bisignano concerning the status of her plea agreement and the government's recent view that Ms. Bisignano would receive no benefit for her cooperation.

When Ms. Bisignano testified as a government witness, at no time during the course of her testimony did the government raise that Ms. Bisignano was in breach of her plea agreement, that the government would not abide by the plea agreement, or that Ms. Bisignano was mistaken in her belief that she would be receiving some kind of credit for her testimony. Indeed, had Ms.

Bisignano testified falsely concerning her cooperation, the government would have had an affirmative duty to correct her testimony. No such correction was made.

Objectively, the government willingly accepted and reaped the benefits of the plea agreement. And indeed, Ms. Bisignano cooperated and did the government's bidding as required. Under basic contract principles, because the government knew of Ms. Bisignano's breach but nevertheless accepted Ms. Bisignano's performance, the government must likewise perform. *See* Restatement (Second) of Contracts § 246(1) (2024) (“[A]n obligor's acceptance or his retention for an unreasonable time of the obligee's performance, with knowledge of or reason to know of the non-occurrence of a condition of the obligor's duty, operates as a promise to perform in spite of that non-occurrence”).

C. The government's obligations under the plea agreement

Given the *Fischer* litigation, the parties' motions to dismiss Count 1 (Dkt. 94, 97), and the history of this case, Ms. Bisignano only partially opposes the government's motion. Ms. Bisignano intends to plead guilty to Count 3 and is not attempting to force the government to dismiss Count 3 as per the original terms of the plea agreement.

However, given Ms. Bisignano's cooperation, and the facts surrounding her cooperation, the defense believes that the government is bound to move for a downward departure under Section 5K1.1 of the Sentencing Guidelines. Dkt. 39 at 11-12. Further, the defense believes that the government should abide by the term of the plea agreement mandating that the government not oppose Ms. Bisignano's continued conditional release from pretrial detention. Dkt. 39 at 6. Such an outcome would equitably resolve this matter and provide the parties the benefit of their bargain.

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IV. Conclusion

For the foregoing reasons, Defendant Gina Bisignano respectfully requests that the Court hold the government to its specific obligations under the previously filed plea agreement.

Respectfully submitted,

CUAUHTEMOC ORTEGA
Federal Public Defender

DATED: July 29, 2024

By */s/ Jonathan C. Aminoff*

JONATHAN C. AMINOFF (Bar No. 259290)
(E Mail: Jonathan_Aminoff@fd.org)
HOLT ALDEN
(E Mail: Holt_Alden@fd.org)
Deputy Federal Public Defenders
Office of the Federal Public Defender, C.D. Cal
321 East Second Street
Los Angeles, California, 90012
Telephone: (213) 894-2854
Facsimile: (213) 894-0081

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No.: 21-cr-036 (CJN)

CERTIFICATE OF SERVICE

I hereby certify on the 29th day of July 2024, a copy of same was electronically filed using the CM/ECF system, and thus delivered to the parties of record, and pursuant to the rules of the Clerk of Court:

Kimberly L. Paschall
Assistant United States Attorney
D.C. Bar No. 1015665
555 4th Street, N.W.
Room 4116
Washington, D.C. 20530
Phone: (202) 252-2650
Email: Kimberly.Paschall@usdoj.gov

DATED: July 29, 2024

By */s/ Jonathan C. Aminoff*

JONATHAN C. AMINOFF (Bar No. 259290)
(E Mail: Jonathan_Aminoff@fd.org)
Deputy Federal Public Defender
Office of the Federal Public Defender, C.D. Cal
321 East Second Street
Los Angeles, California, 90012
Telephone: (213) 894-2854
Facsimile: (213) 894-0081

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

United States of America,) Criminal Action
) No. 21-cr-246-2
Plaintiff,)
) JURY TRIAL
vs.) DAY 1
)
Edward Badalian,) Washington, DC
) March 1, 2023
Defendant.) Time: 9:30 a.m.

TRANSCRIPT OF JURY TRIAL
HELD BEFORE
THE HONORABLE JUDGE AMY BERMAN JACKSON
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

For Plaintiff: Kimberly Paschall
Anthony Mariano
601 D Street, NW
Washington, DC 20530
(202) 252-2650
Email: Kimberly.paschall@usdoj.gov
Email: Anthony.mariano2@usdoj.gov

For Defendant: Robert M. Helfend, Esq.
23838 Pacific Coast Highway
No. 309
Malibu, CA 90265
(310) 456-3317
Email: Rmhelfend@gmail.com

Court Reporter: Janice E. Dickman, RMR, CRR, CRC
Official Court Reporter
United States Courthouse, Room 6523
333 Constitution Avenue, NW
Washington, DC 20001
202-354-3267

1 examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. MARIANO:

4 Q. Good afternoon. Could you please state and spell your name
5 for the record.

6 A. Yes. It's Gina, G-I-N-A. My last name in B, as in boy, I,
7 S, as in Sam, I-G-N-A-N-O.

8 Q. Where do you live?

9 A. I live in Beverly Hills, California.

10 Q. How long have you lived there?

11 A. I've had a business there for 14 years. So I think -- I
12 believe I've lived there for six.

13 Q. You mentioned having a business, what do you for work?

14 A. I do beauty -- eyelash extensions, facials, styling.

15 Q. Are you testifying today pursuant to a subpoena?

16 A. I'm testifying, yes, from a subpoena. Yes.

17 Q. And do you understand that that subpoena requires you to
18 appear in court and to give testimony?

19 A. Yes, I do understand that.

20 Q. Ms. Bisignano, is it difficult for you to be testifying
21 today?

22 A. I don't want to hurt anybody. I just -- I'm just here to
23 tell the truth. So it's a little difficult, yeah.

24 Q. Has anyone reached out to you about your testimony in the
25 past few days?

1 A. Just some girl, yes.

2 Q. Who is that?

3 A. Bryna Makowka.

4 Q. Does Bryna Makowka have any relationship that you know of
5 with Ed Badalian?

6 A. She's in love with him.

7 Q. Do you know if they're in communication?

8 A. I -- not when -- when I was aware, I don't believe so.

9 Q. I would like to -- I'm not sure if the Elmo is on.

10 THE COURT: Ms. Bisignano, I know you have a soft
11 voice and these aren't easy things to talk about, but we do
12 need to get you a little closer to the microphone or have you
13 speak a little louder so we can all hear what you're saying.
14 Thank you.

15 THE WITNESS: Yes. Okay.

16 BY MR. MARIANO:

17 Q. I had the same issue yesterday.

18 I'm pulling up what has been marked as Government
19 Exhibit 607. We've provided a copy to defense counsel this
20 afternoon.

21 Do you recognize Government Exhibit 607?

22 A. Yes.

23 Q. What is this?

24 A. Just some of the threats I've been getting.

25 Q. And who is this -- the message from?

1 A. Bryna Makowka.

2 Q. At the top of Government Exhibit 607, it looks like it's a
3 communication with an account BusyBee. Who is BusyBee?

4 A. Bryna Makowka, just because she calls me from different
5 numbers.

6 Q. And over what platform is this conversation taking place?

7 A. Yes, Twitter messaging.

8 Q. Can you read the message from Ms. Makowka at 6:01 a.m.?

9 A. "Selling out, lying about patriots to avoid jail, more like
10 it. Have fun wearing an ankle bracelet and being on probation.
11 What a balding mess you are."

12 Q. How do you respond to that?

13 A. "I will show this -- the FBI. This is tampering. My looks
14 have nothing to do with a subpoena. It's not against anyone,
15 it's just facts. You can't lie to the FBI." That's what I
16 meant to say, but I just --

17 MR. MARIANO: The United States moves to admit
18 Government Exhibit 607.

19 THE COURT: Any objection?

20 MR. HELFEND: No, Your Honor.

21 THE COURT: All right. It will be admitted.

22 BY MR. MARIANO:

23 Q. I'm showing you a document which is marked as Government
24 Exhibit 608. Likewise, a copy of this was provided --

25 THE COURT: Before you read it to me, does the

1 defense have any objection to its admission?

2 MR. HELFEND: No.

3 THE COURT: All right. So it will be admitted. Go
4 ahead.

5 BY MR. MARIANO:

6 Q. Is this also a message from BusyBee over Twitter?

7 A. Yes.

8 Q. And that's Bryna Makowka?

9 A. Yes.

10 Q. Can you read the message from Miss Makowka at 9:19 a.m.?

11 A. "You need your church to pay your rent, so lying about Ed,
12 who never came to your house. Disingenuous hag who thought she
13 was going to encourage men to become violent. If the
14 prosecution argument holds any water, that means you should be
15 tried for all of the men that you encouraged to use weapons."

16 Q. And how did you respond to that?

17 A. "I will show the courts this."

18 THE COURT: I'm sorry, when were these received?

19 MR. MARIANO: That's a good question, Your Honor. I
20 apologize for not asking that.

21 BY MR. MARIANO:

22 Q. Let me go back to Government Exhibit 607. Do you recall
23 what day this was sent?

24 A. This morning.

25 Q. Government Exhibit --

1 A. Or, yesterday.

2 Q. -- 607, was this earlier this week?

3 A. Or yesterday, yes. Just from different phone numbers. But
4 this is -- I didn't realize it was her at first, until Gabe
5 told me -- somebody told me.

6 Q. Returning to Government Exhibit 608. Do you know what day
7 this is from?

8 A. I believe it's from yesterday -- oh, today. Okay.

9 Q. Are these the only messages you've received regarding your
10 testimony?

11 A. Oh, no. No.

12 Q. How has receiving these messages affected you?

13 A. Well, I'm fighting for my life. I just want to tell the
14 truth. And it affects me because it makes me nervous because I
15 don't want any -- because I don't lie and I'm not lying and
16 it's not worth my life. So I just don't like to be
17 misrepresented.

18 Q. So I want to get to the substance of January 6th as quickly
19 as possible. But before I do that, have you personally been
20 charged in connection with your conduct --

21 A. I have.

22 Q. -- at the Capitol on January 6th?

23 A. I have.

24 Q. And did you plead guilty to those charges?

25 A. I pled guilty to the misdemeanors and I took back the

1 guilty of the 1512.

2 Q. Just so the Court is clear, is the situation that you've
3 pled guilty to 1512 and you're seeking to withdraw that plea?

4 A. Yes, I am.

5 Q. And that's while the 1512 matter is on appeal, is that
6 right?

7 A. Yes, sir.

8 Q. Let's go to Government Exhibit 721.

9 THE COURT: Wait. I would like to know what's going
10 on. It's very unclear to me now. She was charged with
11 felony -- the felony 1512 count and misdemeanors?

12 MR. MARIANO: I believe there might have been
13 additional felonies, actually, Your Honor. She has moved to
14 withdraw her guilty plea, but only with respect to the 1512
15 count, which, as Your Honor knows, is before the Circuit Court.

16 THE COURT: Okay. So she's moved to withdraw the
17 1512 plea. That's pending, that hasn't been ruled on?

18 MR. MARIANO: Yes, Your Honor.

19 THE COURT: But when she pled guilty, she pled guilty
20 to that and to several misdemeanors?

21 MR. MARIANO: Yes, Your Honor. I have the charges
22 that she pled guilty to in front of me, those are 1512(c)(2)
23 and 2, 231(a)(3), 1752(a)(1), 1752(a)(2), 1752(a)(4), and
24 5104(e)(2)(D). And this is before Judge Nichols.

25 THE COURT: I'm sorry. Before Judge?

1 MR. MARIANO: Nichols.

2 THE COURT: Okay. But the only one she's seeking to
3 withdraw is that one felony, or the other felonies?

4 MR. MARIANO: It is only the 1512(c)(2).

5 THE COURT: Okay. And you're about to -- you're
6 putting the plea agreement in evidence right now. Is there a
7 cooperation aspect to the plea agreement?

8 MR. MARIANO: There is, Your Honor.

9 THE COURT: All right. And she's yet to be sentenced
10 for any of this?

11 MR. MARIANO: Correct, Your Honor.

12 THE COURT: All right. Go ahead. What's the docket
13 of the plea?

14 MR. MARIANO: This is Government Exhibit 721.

15 THE COURT: Okay.

16 BY MR. MARIANO:

17 Q. Ms. Bisignano, what is Government Exhibit 721?

18 A. It's under seal, the plea deal.

19 Q. And if we can turn to the last page. Is that your
20 signature on the plea agreement?

21 A. Yes.

22 Q. As part of that plea agreement, have you agreed to
23 cooperate with the United States in relevant matters?

24 A. Yes.

25 Q. And that includes testifying in criminal trials where you

1 have relevant knowledge, right?

2 A. Yes.

3 Q. And you haven't been sentenced for the charges that you've
4 pled guilty to, right?

5 A. No.

6 Q. And you understand that by cooperating with the
7 United States you may be in a position to help yourself with
8 sentencing, right?

9 A. Yes.

10 Q. And you're hoping to do that?

11 A. Yes.

12 Q. Do you know an individual named Ed Badalian?

13 A. Yes. Yes.

14 Q. Did you see Mr. Badalian on January 6th at the U.S. Capitol
15 building?

16 A. Yes.

17 Q. Do you know an individual named Daniel Rodriguez?

18 A. Yes.

19 Q. Did you see Mr. Rodriguez on January 6th at the U.S.
20 Capitol building?

21 A. Yes.

22 Q. How do you know Mr. Badalian?

23 A. I know him briefly from the Trump rallies and Beverly Hills.
24 And a client, Bryna, was obsessed with him. She would talk
25 about him all the time, and that's what --

1 Q. This is Ms. Makowka, who we were just discussing?

2 A. Yes.

3 Q. Do you recall approximately when you first met
4 Mr. Badalian?

5 A. I believe we were at a Trump rally in Beverly Hills.

6 Q. Do you recall when this was in terms of the calendar,
7 approximately?

8 A. I don't remember, but it was before Trump was elected.

9 Q. Was it around the time of the campaign for President in
10 2020?

11 A. Yes.

12 THE COURT: The first campaign?

13 THE WITNESS: Yes.

14 BY MR. MARIANO:

15 Q. Sorry. Was it the first campaign in 2016 or the campaign
16 in 2020?

17 A. It was the first campaign -- oh, I'm sorry, it was the
18 second. Sorry.

19 THE COURT: So he was already President?

20 THE WITNESS: Yes.

21 THE COURT: And he's running for President again?

22 THE WITNESS: Yes.

23 THE COURT: And you're going to rallies and that's
24 how you met Mr. Badalian?

25 THE WITNESS: Yes. Sorry.

1 THE COURT: All right.

2 BY MR. MARIANO:

3 Q. How do you know Mr. Rodriguez?

4 A. Oh, Mr. Rodriguez, I saw him in passing at the rallies.

5 Q. And based on -- were those the same rallies where you saw
6 Mr. Badalian?

7 A. Yes.

8 Q. Based on your interactions with them at those rallies, did
9 they seem to have any kind of relationship?

10 A. They seemed to be very good friends.

11 Q. Did you ever ask Mr. Rodriguez or Mr. Badalian for any help
12 when you were at those rallies?

13 A. I remember -- recall saying: Hope you guys protect me --
14 to that effect -- because, yeah.

15 Q. And why did you ask them for protection?

16 A. Because there were these people that would come to the
17 rallies -- antifa -- and I believe they started with people,
18 and I didn't see the fight start or end, but I know that Ed
19 took care of them and he was able to fight back. They attacked
20 him, I know that, but he was able to hold his own. So I do
21 remember that.

22 Q. So you mentioned that you were in D.C. on January 6th. Did
23 you discuss at all your plans to come to D.C. with
24 Mr. Rodriguez or Mr. Badalian?

25 A. I don't recall that.

1 Q. So when did you actually personally arrive in D.C.?

2 A. I believe January 5th -- the morning, from what I recall.

3 Q. And how did you travel to D.C.?

4 A. Airplane.

5 Q. Do you recall where you stayed?

6 A. The Hampton Inn. The Hampton, yeah.

7 Q. And while you were in Washington, D.C., did you see

8 Mr. Rodriguez or Mr. Badalian at all prior to the 6th?

9 A. In D.C.?

10 Q. Yes, ma'am.

11 A. I don't recall seeing them the day before. I remember who

12 I did see. I could have passed them, but my recollection right

13 now, I don't recall.

14 Q. Were you planning to meet up with them on January 6th?

15 A. No. No.

16 Q. So then let's turn to January 6th. In the morning,

17 approximately when did you leave your hotel?

18 A. 6 a.m. I think 6, 6:30.

19 Q. Were you with anyone else?

20 A. You know, I remember getting up and going alone and then

21 briefly that morning seeing a couple girls that I knew, yeah.

22 Q. And where were you going from your hotel?

23 A. To the Ellipse.

24 Q. How did you get there?

25 A. I walked.

1 Q. And what was happening at the Ellipse that day?

2 A. President Trump was speaking, along with a bunch of other
3 speakers.

4 Q. Were you able to hear then President Trump speak?

5 A. Yes.

6 Q. What, if anything, did you hear then President Trump asking
7 the crowd to do?

8 A. Peacefully and patriotically take a walk over to the
9 Capitol and let your voices be heard.

10 Q. What, if anything, did you hear then President Trump say
11 about Vice President Mike Pence?

12 A. I recall him saying: We hope he does the right thing.

13 Q. So where did you go from the Ellipse?

14 A. I was walking toward -- down Pennsylvania Avenue, towards
15 the Capitol.

16 Q. Let's go to Government Exhibit 506. What is Government
17 Exhibit 506?

18 A. That's a picture of Ed and I.

19 Q. And looking at the individual on the left of the
20 photograph, can you identify who that is?

21 A. That's myself.

22 Q. And the individual to the right of the two individuals on
23 the photograph, who is that?

24 A. That's Ed.

25 Q. Do you recall who took this photograph?

1 A. I don't recall.

2 Q. And where was this photograph taken?

3 A. On the way to the Capitol.

4 Q. If we zoom in just towards the top of the photo, there's a
5 name on the building, can you read the name on the building in
6 the back of the photo?

7 A. Archives of the United States of America.

8 Q. If we go back to the full photo, I'm going to circle an
9 object below a sign that says Stand with Trump. Do you see
10 that object?

11 A. Yes.

12 Q. What is that?

13 A. A walkie-talkie.

14 Q. I think you said, to make sure the record is clear, this is
15 on January 6th, right?

16 A. Yes.

17 Q. I would like to go through some videos from January 6th.
18 Let's start with Government Exhibit 415.

19 Let's play from 0000 to 10 seconds in.

20 (Video played.)

21 We paused at 10 seconds. I'm circling an individual to
22 the far left of the screen. Do you recognize that individual?

23 A. Yes.

24 Q. Who is that?

25 A. DJ.

1 Q. DJ Rodriguez?

2 A. Yeah, Danny Rodriguez, yes.

3 Q. Can you describe the hat that he's wearing?

4 A. It has an elephant. It's descriptive because there's pins
5 on it.

6 Q. And then do you see any writing on the hat?

7 A. Make America Great Again.

8 Q. In this video that we started watching, where is this
9 taking place?

10 A. This is on the west tunnel.

11 Q. At the U.S. Capitol building?

12 A. Yes, sir.

13 Q. What was happening in the tunnel at this point?

14 A. Well, there was a fight.

15 Q. A fight amongst whom?

16 A. The patriots and the Capitol Police.

17 Q. You say the "patriots," you mean the people -- part of the
18 mob?

19 A. Yes. Yes.

20 Q. Let's play from 10 seconds to 17 seconds.

21 (Video played.)

22 We paused at 17 seconds. Did you hear Mr. Rodriguez say
23 anything?

24 A. Yes.

25 Q. What did he say?

1 A. "We're F'ing doing it."

2 Q. For the record, did he say "F'ing" or did he say the actual
3 word?

4 A. The actual word.

5 Q. Let's play from 17 seconds until 36 seconds, which is the
6 end of the clip.

7 (Video played.)

8 Approximately how long were you in the tunnel that day?

9 A. I believe an hour -- 45 minutes to an hour.

10 Q. Can you describe in general what you observed while you
11 were in the tunnel for those 45 minutes to an hour?

12 A. There was a lot of very upset people who wanted their
13 voices heard. We went up to the doors and there then began a
14 big fight between the police and the patriots.

15 Q. Was that fight going on for most of those 45 minutes to an
16 hour?

17 A. Yes.

18 Q. So when you eventually left the tunnel, where did you go?

19 A. I went over to the right side of the window.

20 Q. So, when you say right, I just to be clear, if you're
21 coming out of the tunnel, in what direction did you go?

22 A. To the right.

23 Q. Let's go to Government Exhibit 439, and let's play from the
24 start of the video until about 18 seconds in.

25 (Video played.)

1 We're paused at 18 seconds. This individual is pretty
2 far in the background, but I'll circle. Do you recognize that
3 individual on the lower left-hand side of the screen?

4 A. (No response.)

5 Q. We can play a few more seconds, if that would be helpful.

6 (Video played.)

7 Okay. Let's go back to 18 seconds or so. Do you
8 recognize that individual?

9 A. I believe that's Ed.

10 Q. What is the crowd chanting?

11 A. "USA."

12 Q. And from where you were, were you able to see what was
13 happening in the tunnel at this point?

14 A. From my peripheral, yes.

15 Q. What was happening at the tunnel?

16 A. I remember ladders going back and forth, screaming,
17 teargas.

18 Q. And what were those ladders doing?

19 A. Going towards the entrance.

20 Q. Where the police were?

21 A. Floating, yeah.

22 Q. And the window in the back of this video, is that the
23 window where you were?

24 A. Yes.

25 Q. Let's play the remainder of the video from 18 seconds to 30

1 seconds.

2 (Video played.)

3 Let's go to Government Exhibit 422, and let's just play
4 from the beginning of the video to 2 seconds in.

5 (Video played.)

6 We're paused at 2 seconds. I'm circling the center of
7 the screen, an individual wearing a red hat. Do you recognize
8 that individual?

9 A. That's Ed. That is Ed, yeah.

10 Q. We can play the remainder of the video, from 2 seconds to
11 25 seconds.

12 (Video played.)

13 Can you describe what was happening in that video?

14 A. Yeah. There was a gentleman up to the window, we all
15 believed it was antifa, and he started going to chip away at
16 the window. And the woman -- and I was just kind of standing
17 by, I didn't stop him and -- and then the lady was screaming
18 and then Ed comes over and starts beating him up. And I said,
19 why, what's doing on? He said: He's antifa. He's breaking
20 windows. We don't break windows. And then the girl said:
21 Antifa, we don't do that shit. So he was pulling him off the
22 window to get him to stop breaking the window.

23 Q. The two videos that we just watched, Government Exhibit 415
24 and 422, were those videos that you took?

25 A. The ones that we just watched with DJ?

1 Q. Yes.

2 A. Yes, and this one.

3 Q. Let's go back to 2 seconds in this video.

4 (Video played.)

5 That's good. We can pause there at 2 seconds. I've
6 circled again the individual towards the center right of the
7 screen. Can you describe the hat that that individual is
8 wearing?

9 A. It's an Armenian hat.

10 Q. The writing is in another language?

11 A. Um-hum. I believe it's Armenian or --

12 Q. And it's a red hat, right?

13 A. Yes, sir.

14 Q. Let's go to Government Exhibit 438, and let's play until 40
15 seconds in from the beginning.

16 (Video played.)

17 You keep playing until 43 seconds.

18 (Video played.)

19 Okay. Let's go back to 41 seconds and pause there.

20 Circling the individual at the top of the screen, do you
21 recognize who that is?

22 A. Ed.

23 Q. And what did you hear him saying in that video?

24 A. Can you replay that?

25 Q. Sure. Let's go back to maybe 35 seconds and play it to 43

1 seconds.

2 (Video played.)

3 We're paused at 43 seconds. Could you hear what he was
4 saying?

5 A. He says: Knock it off. We want to arrest traitors -- I
6 guess. We don't want to damage the building.

7 Q. And was this the same incident that we were just watching
8 in the prior video, Government Exhibit 422?

9 A. Yes.

10 Q. Okay. So let's play from 43 seconds until the end of the
11 clip, 1 minute and 43 seconds.

12 (Video played.)

13 So that window that was the subject of these two videos,
14 did Mr. Rodriguez eventually go through that window?

15 A. I believe so, yes.

16 Q. Did Mr. Badalian eventually go through that window?

17 A. I believe so, yes.

18 Q. And what was past that window?

19 A. Office buildings -- I'm sorry, office rooms.

20 Q. Did you go through that window as well?

21 A. Yes, I did.

22 Q. So when you went through that window, you said you were in
23 office space. What do you see happening in that office space?

24 A. A lot of upset people, crying. Everybody was doing
25 different things and people were breaking things. Some people

1 were crying. Some people were looking around. Some people
2 were defecating. Some people were standing. So --

3 Q. Let's go to Government Exhibit 320, and we can play
4 until -- from the beginning until 8 seconds.

5 (Video played.)

6 Maybe go forward just a bit.

7 (Video played.)

8 Let's try backwards this time.

9 (Video played.)

10 Let me pause there. We can show you more of the video
11 if it would be helpful, but I'm circling an individual towards
12 the center front of the screen, in front of a woman who is
13 wearing a flag like a cap. Do you know who that is?

14 A. By his clothes, I believe it's Ed.

15 Q. Why don't we play those 8 seconds again, and I'd ask you to
16 watch that individual and then tell us if you know who it is.

17 (Video played.)

18 So we're paused again at 8 seconds. Do you recognize
19 that individual?

20 A. That's Ed, from what I can see.

21 Q. Okay. Let's play the remainder of the video from 8 seconds
22 to 26 seconds.

23 (Video played.)

24 So we're paused at 26 seconds. Do you see yourself in
25 this video?

1 A. I do.

2 Q. Can you circle where you are?

3 A. (Indicating) right there.

4 Q. And from that position, did you have a view of the tunnel
5 and what was happening there?

6 A. Yes.

7 Q. And what was happening at the tunnel at this point?

8 A. It's very hard to recall, it's been years. But, fighting,
9 ladders.

10 Q. Let me ask you a broader question. For the duration of the
11 time that you were at the window, what was happening at the
12 tunnel?

13 A. Fights.

14 Q. Was that happening pretty consistently while you were at
15 the window?

16 A. Yes.

17 Q. In terms of the sequence of events, is this video that we
18 just watched after the incident where Mr. Badalian was fighting
19 the individual that he believed was antifa?

20 A. I believe so. The window is broken, so --

21 Q. Let's go to Government Exhibit 441, and let's play from the
22 beginning to 18 seconds in.

23 (Video played.)

24 We're paused at 18 seconds. I'm circling an individual
25 towards the front of the screen. Do you recognize who that is?

1 A. From the back, it looks like Ed.

2 Q. And what is the crowd doing at this point?

3 A. "USA."

4 Q. They're chanting "USA"?

5 A. Um-hum.

6 Q. And what was happening at the tunnel at this point?

7 A. Fights. I recall very vividly spray back and forth,
8 ladders.

9 THE COURT: Can you tell me about the ladders?

10 THE WITNESS: Yeah.

11 THE COURT: You mean ladders, like fire engine
12 ladders, ladders like you use in your house, or are you talking
13 about pieces of the bike racks?

14 THE WITNESS: From what I can recall, I remember
15 seeing ladders, like fire engine ladders.

16 THE COURT: Okay.

17 THE WITNESS: I mean, it was three -- two and a half
18 years ago. But, they were silver ladders.

19 THE COURT: All right.

20 BY MR. MARIANO:

21 Q. Were those ladders being used as weapons against law
22 enforcement?

23 A. From what I could see, towards the tunnel (indicating).

24 Q. Let's go to Government Exhibit 308, and let's play from 49
25 minutes and 0 seconds to 49 minutes and 13 seconds.

1 (Video played.)

2 And if we can go back to 49:13. I'm circling an
3 individual towards the bottom of the screen, slightly to the
4 left. Do you recognize that individual?

5 A. I recognize the clothing to be Ed, from the jacket.

6 Q. And did you -- apologize for talking over you.

7 A. No worries.

8 Q. In what direction is he walking?

9 A. To the left.

10 Q. Does it appear to be towards that same window?

11 A. It appears that way.

12 Q. Let's resume and play from 49:13 to 49:35.

13 (Video played.)

14 We're paused at 49:35. Do you see yourself on the
15 screen here?

16 A. I do, yes.

17 Q. And are you the individual in the top left corner of the
18 screen?

19 A. Yes.

20 Q. And circling an individual towards the center, maybe a
21 little further down on the left-hand side of the screen, do you
22 recognize that individual?

23 A. I recognize the hat and the thing -- the thing to be Ed,
24 from the clothes, because I can't see the front of his face.

25 Q. Let's resume and play in 49:35 to 50 and 10 seconds.

1 (Video played.)

2 We're paused at 50 minutes and 10 seconds. Circling an
3 individual on the left-hand, towards the front of the screen,
4 do you recognize that individual?

5 A. I recognize that outfit and it looks to be Ed.

6 Q. Let's resume and play from 50 minutes and 10 seconds to 50
7 minutes and 27 seconds.

8 (Video played.)

9 If we can maybe go back one second, a little bit.

10 I'm circling an individual to the left of the screen in
11 front of the window. Do you recognize who that is?

12 A. I believe that's Ed. Can you get a better angle?

13 Q. Sure. Why don't we go back to maybe 50:20 and we'll play 7
14 seconds or so at half speed, if that's okay.

15 (Video played.)

16 We're paused again at 50:27. Do you know who that
17 individual was?

18 A. That's Ed.

19 Q. And what was that individual doing?

20 A. I don't recall.

21 Q. Was he interacting with you at all on the video?

22 A. Yes.

23 Q. And how so?

24 A. I don't -- I really don't remember exactly how.

25 Q. Does it look like he was reaching out and touching you at

1 all?

2 A. Looks like we were having a conversation.

3 Q. Did you hear what you were saying into the megaphone in
4 that last clip?

5 A. What I was saying?

6 Q. Yes.

7 A. I don't remember -- can you replay it?

8 Q. Sure. Let's go back. We can play this at normal speed, I
9 think that will help, and we'll play from 50 minutes 20
10 seconds --

11 A. Okay.

12 Q. -- for about seven seconds again.

13 (Video played.)

14 Pause. We should maybe start at maybe 50:17.

15 (Video played.)

16 Okay. We're paused at 50:27. Do you hear what you were
17 saying into the microphone?

18 A. I said: Where is the patriots? Where is DJ?

19 Q. And "DJ" was referring to whom?

20 A. The other gentleman that he was with.

21 Q. That Mr. Badalian was with?

22 A. Yes, sir.

23 Q. And DJ referred to Mr. Rodriguez?

24 A. Yes.

25 Q. Let's go to Government Exhibit 424. We'll play this video

1 and when it's done I'm going to ask if you hear what people are
2 saying, as well as what you are saying.

3 (Video played.)

4 So, first, let me ask, we've watched the entire video,
5 which is 17 seconds, where is this video taking place?

6 A. That's outside the window in the office room.

7 Q. This is inside, past the window, right?

8 A. Yes.

9 Q. And who is taking this video?

10 A. I believe I was.

11 Q. What did you hear people saying in the video?

12 A. Um, so many different things. Can you replay it?

13 Q. Sure.

14 (Video played.)

15 Okay. We've watched the 17-second video. What did you
16 hear people saying?

17 A. Nancy Pelosi. It was hard to make out what else they were
18 saying. And then I said, "Broke inside."

19 Q. Okay. Let's go to Government Exhibit.

20 THE COURT: Okay. You said you were taking the
21 video, but you're in it.

22 THE WITNESS: I know.

23 THE COURT: Did you give anybody your --

24 THE WITNESS: No, I was documenting.

25 THE COURT: -- cell phone, or just a selfie?

1 THE WITNESS: I was documenting the whole thing.

2 THE COURT: Okay.

3 BY MR. MARIANO:

4 Q. Let's go to Government Exhibit 425. This is also a
5 17-second video that we can play in its entirety.

6 (Video played.)

7 I apologize, I think I said it was 17 seconds. It looks
8 like it was 12 seconds.

9 Who took this video?

10 A. I believe I did.

11 Q. And where is this taking place?

12 A. In front of the window.

13 Q. And in that same room?

14 A. Yes.

15 Q. Let's go to Government Exhibit 307, and we'll start at 57
16 minutes, 49 seconds and play to 58:29. Yes, 57:49.

17 (Video played.)

18 We're paused at 58 minutes and 32 seconds. I'm circling
19 an individual at the center of the screen in the background.

20 Do you recognize that individual?

21 A. That's Jeff.

22 Q. We haven't talked about Jeff yet. Who is Jeff?

23 A. Jeff is another individual from Beverly Hills that we
24 randomly all ran into each other --

25 Q. And how do you know Jeff?

1 A. -- in D.C.

2 I didn't really know him before that. I've seen him
3 once or twice, but never spoke to him before that day.

4 Q. And we're paused at 58:32. What space are we in right now
5 for this video?

6 A. That's the office space outside of the window -- inside of
7 the window.

8 Q. Same office space as before?

9 A. Yeah. Yeah. Yes.

10 Q. Let's play from 58:32 to 58:55.

11 (Video played.)

12 We're paused at 58 minutes and 55 seconds. Do you hear
13 yourself in the background of that clip?

14 A. I did, yes.

15 Q. What were you saying?

16 A. DJ. Ed.

17 Q. Were you saying that into a megaphone?

18 A. I was.

19 Q. Why were you calling for them?

20 A. It was chaos and I felt I knew them because -- two of the
21 few guys I knew in the crowd. And I called -- I was kind of
22 not in the best situation, so --

23 Q. What do you mean by that?

24 A. I mean, we're all covered by people. We're in a rally.
25 It's all, you know, hullabaloo, so I felt safe saying: Hey,

1 DJ, Ed, come over here.

2 THE COURT: When there was a voice before you said,
3 "DJ, Ed," there was a voice that said, "People need to push
4 forward."

5 THE WITNESS: Yeah, I heard that.

6 THE COURT: Did you recognize that voice?

7 THE WITNESS: I didn't recognize that voice, but I
8 did hear it.

9 THE COURT: Okay.

10 BY MR. MARIANO:

11 Q. And when you were calling to DJ and Ed, did you know where
12 they were?

13 A. At that moment, no.

14 Q. Did you know at that moment if they were inside of the
15 window in the office space or if they were out with the crowd?

16 A. I don't believe they were in because that's why I said,
17 "DJ, Ed."

18 Q. Let's play from 58:55 to 58:57.

19 (Video played.)

20 You can maybe frame forward a little bit.

21 (Video played.)

22 And pause here. Do you recognize the individual in the
23 center of the screen coming through the window?

24 A. I do. It's Daniel Rodriguez.

25 Q. Okay. We can play from 58:58 to 59:03.

1 (Video played.)

2 Maybe frame forward a little bit. And pause there at
3 59:04. Do you recognize the individual at the center of the
4 screen?

5 A. I recognize that to be Ed with --

6 Q. And where is he coming from?

7 A. I think the window.

8 Q. Directionally, does that look like where he's coming from?

9 A. Yes. Yes.

10 Q. So let's play from 59:04 to 1 hour and 13 seconds.

11 (Video played.)

12 We're paused at 1 hour and 13 seconds. I'm going to
13 circle a few individuals. First, the individual to the left of
14 the center of the screen, towards the door, do you recognize
15 who that is?

16 A. I believe that's Jeff.

17 Q. The individual almost dead center on the screen, do you
18 recognize who that is?

19 A. I recognize his clothes to be Ed, yeah. I can't see his
20 face.

21 Q. And the individual slightly to the right on the screen in
22 what appears to be the back corner of the room, do you
23 recognize who that is?

24 A. I believe that's DJ.

25 Q. Okay. We can go to Government Exhibit 305 and play from

1 the beginning of the video to 1 minute in.

2 (Video played.)

3 We're paused at 1 minute. Do you see whose speaking
4 into the megaphone now?

5 A. Jeff.

6 Q. Let's resume from 1 minute and play until 1 minute, 13
7 seconds.

8 (Video played.)

9 We're paused at 1:13. What is Jeff doing now?

10 A. He's on the megaphone -- or, he's going through the window.

11 Q. Let's play from 1 minute and 13 seconds to 1 minute and 26
12 seconds.

13 (Video played.)

14 So, we have a good shot of the window here. Is this the
15 same window where Mr. Badalian earlier fought another rioter?

16 A. Yes, I believe it was.

17 Q. What is the status of the window now?

18 A. It's broken.

19 Q. So let's continue playing from 1:26 to 2 minutes and 10
20 seconds.

21 (Video played.)

22 We're paused at 2 minutes and 10 seconds. In the clip
23 that we just watched, did you hear a discussion of a floor
24 plan?

25 A. Yes, I did.

1 Q. And what were people saying?

2 A. "What's the floor plan from left to right?"

3 Q. And then who responded to that?

4 A. I believe that was Jeff.

5 Q. I'm happy to play the clip again, if it would --

6 A. Oh, yes, please.

7 Q. Let's go back maybe to 10 seconds or so. So 2 minutes,
8 we'll play until 2:10.

9 A. Okay.

10 (Video played.)

11 Q. We're paused at 2 minutes and 10 seconds. So who was
12 responding to that question about the floor plan?

13 A. Jeff.

14 Q. Okay. Let's play from 2 minutes and 10 seconds to 2
15 minutes and 36 seconds.

16 (Video played.)

17 We're paused at 2:36. Did you hear yourself on the
18 megaphone again?

19 A. I did.

20 Q. What were you saying?

21 A. "DJ. Ed. Ed."

22 Q. Let's play from 2:36 to 3 minutes and 5 seconds.

23 (Video played.)

24 We're paused at 3 minutes and 5 seconds. Circling the
25 individual in the center of the screen, do you recognize who

1 that is?

2 A. That's DJ.

3 Q. Did you hear anything that he was saying in that clip?

4 A. Can you replay that?

5 Q. Sure.

6 A. I did hear, but --

7 Q. Let's go back to maybe 2:55 or so.

8 (Video played.)

9 We're paused at 3:05. What did you hear Mr. Rodriguez
10 say?

11 A. "Use the table as a shield. Use the able to as shield."

12 Q. Let's play from 3:05 to 3:23.

13 (Video played.)

14 We're paused at 3:23. Do you see an individual to the
15 left of the -- excuse me, to the right of the screen?

16 A. I do not.

17 Q. I've circled the individual to the left of the screen, do
18 you recognize who that is?

19 A. Not from that particular photo.

20 Q. Okay. Why don't we go back maybe three seconds and play it
21 at half speed for a few seconds.

22 (Video played.)

23 So we only have the corner of this individual on the far
24 right of the screen now, but do you recognize who that was?

25 A. Right there (indicating)?

1 Q. Yes. You can circle on the screen, if that would be
2 helpful.

3 A. I believe the turtle coat belongs to Ed.

4 Q. When you say "the turtle," you're referring to the mask
5 pulled up over his mouth?

6 A. Yes. Yes.

7 Q. For the record, we're paused at 3:24. So let's resume at
8 3:24 and continue until 4:21.

9 (Video played.)

10 We're paused at 4 minutes, 21 seconds. I'm going to
11 circle an item in the lower left-hand corner of the screen.
12 What is that item?

13 A. A chair turned sideways.

14 Q. And where is it in relation to the door?

15 A. Back of the door.

16 Q. Does it appear to be obstructing the door that's being
17 opened?

18 A. It appears that way.

19 Q. So I'm going to ask you to focus on that chair, and we'll
20 play from 4 minutes, 21 seconds to 4 minutes and 29 seconds.

21 A. Okay.

22 (Video played.)

23 Q. We're paused at 4 minutes, 29 seconds. I'm circling an
24 individual on the far left-hand side of the screen. Who is
25 that?

1 A. From the jacket and the turtle and the hat, it matches what
2 Ed had on. It looks like Ed.

3 Q. Did you see what that individual did with respect to the
4 chair that was obstructing the door?

5 A. Can you replay that?

6 Q. Sure. Let's play from 4:21 to 4:29.

7 (Video played.)

8 We're paused at 4:29. Did you see what that individual
9 did with respect to the chair obstructing the door?

10 A. I didn't see the beginning, I saw the end.

11 Q. And what was he doing?

12 A. He pulled up the chair.

13 Q. Away from the door?

14 A. It seems to be that way.

15 Q. Okay. So I'm going to ask you to now focus on that
16 individual and the door. And let's play from 4:29 to 4:33 at
17 half speed.

18 (Video played.)

19 And continue for another second maybe.

20 (Video played.)

21 Okay. We're paused at 4:34. Did you see where that
22 individual, Mr. Badalian, went with respect to the door?

23 A. I did not. In back of the door?

24 Q. Yes.

25 A. Can you play it again?

1 Q. Sure.

2 A. I'm sorry.

3 Q. So we'll start again at 4:29. And I'll just be clear, but
4 what I'm asking you is if the individual appears to be going
5 through the door.

6 (Video played.)

7 So where was Mr. Badalian going, from what you saw?

8 A. Standing and walking towards the room.

9 Q. Towards what room?

10 A. To another room, random room.

11 Q. Through that door?

12 A. Yeah.

13 Q. We can play this at normal speed from 4:34 to 5:38.

14 (Video played.)

15 So we're paused at 5:38. What happened to the door that
16 we were just talking about?

17 A. It was broken.

18 Q. And what happened next?

19 A. They are putting it through the window, I believe. Yeah.

20 Q. Taking it out of the Capitol building?

21 A. Yes.

22 Q. Let's continue from 5:38 until 7 minutes and 2 seconds.

23 (Video played.)

24 We're paused at 7 minutes, 2 seconds. Do you recognize
25 the individual at the center of the screen?

1 A. That was the boy who was breaking the window.

2 Q. This was the individual that Mr. Badalian took off the
3 window, you believe?

4 A. I believe it is.

5 Q. Okay. Let's continue playing for one more second, to 7
6 minutes and 3 seconds.

7 (Video played.)

8 I'm circling an individual to the left of center of the
9 screen. Who do you recognize that to be?

10 A. I recognize that to be Ed.

11 Q. And what is he doing?

12 A. Walking in the hallway.

13 Q. Between rooms?

14 A. Yes.

15 Q. Okay. Let's play from 7 minutes and 3 seconds until
16 8 minutes and 10 seconds.

17 (Video played.)

18 We're paused at 8 minutes and 10 seconds. Did you see
19 Mr. Rodriguez in that video?

20 A. I do.

21 Q. And what was he doing?

22 A. He was breaking the window.

23 Q. This is a different window than the window we were talking
24 about earlier, right?

25 A. Yes.

1 Q. Let's go on to Government Exhibit 306, and we'll play from
2 the beginning of that video to 44 seconds.

3 (Video played.)

4 We're paused at 44 seconds. Who do you recognize on the
5 screen?

6 A. Jeff and DJ.

7 Q. Can you circle and indicate where they are?

8 A. Jeff (indicating). DJ (indicating).

9 Q. Let's resume and play from 44 seconds to 1 minute, 22
10 seconds.

11 (Video played.)

12 1 minute and 22 seconds. Who is in on the screen?

13 A. Jeff. Jeff.

14 Q. Let's resume at 1:22 and play until 2:19.

15 (Video played.)

16 We can continue playing.

17 (Video played.)

18 Let's go back to 3:26. I'm going to circle a few
19 individuals on the screen. On the right-hand side of the
20 screen, in the back corner of the room, who is that?

21 A. That looks to be DJ.

22 Q. And left of center of the screen, who is that?

23 A. That looks to be Ed with the same outfit.

24 Q. And then to the left of him, closer to the door, who is
25 that?

1 A. Jeff.

2 Q. Okay. We can resume from 3:26 and play until 3:53.

3 (Video played.)

4 Looking at the lower left-hand side of the screen, do
5 you recognize who that individual is?

6 A. I do not.

7 Q. Okay. Let's resume and play until 3:55.

8 (Video played.)

9 Frame forward. Let me pause there. Do you recognize
10 who this individual on the far right-hand side of the screen is?

11 A. In that particular picture, I assume it's Ed because the
12 thing, and the hat, but I can't see from here.

13 Q. Let's continue playing then from 3:56 to 4:24.

14 (Video played.)

15 We're paused at 4:24. Do you recognize this individual
16 to the far right of the screen now?

17 A. It looks like Ed.

18 Q. And where is Ed with relation to the door?

19 A. On the outside of the door.

20 Q. And in that clip that we just watched, what was happening
21 with respect to that door?

22 A. Jeff was kicking the door in.

23 Q. Okay. Let's play from 4:24 to 4:43.

24 (Video played.)

25 Let's pause at 4:43. What was happening in that clip?

1 A. They went up to the door and they went into another office.

2 Q. Okay. Let's continue playing from 4:43 to 5:47.

3 (Video played.)

4 At the end of that clip, and for the duration of that
5 clip, was that all within the same series of rooms that we've
6 been talking about inside the window?

7 A. Yes.

8 MR. MARIANO: Your Honor, I'm about to turn to some
9 post January 6th conduct. If this is an appropriate time to
10 break, I'm happy to do it now, but I'm certainly happy to
11 continue.

12 THE COURT: Okay. Keep going or break?

13 Yes, we're going to take a ten-minute break. The
14 witness can have a break as well. During the break, though,
15 you cannot discuss your testimony with anyone. We'll pick up
16 at 3 p.m. Thank you. Thank you.

17 (Recess.)

18 THE COURT: All right. We need our witness.

19 (Witness resumed the stand.)

20 THE COURT: You can take your seat. You can proceed.

21 BY MR. MARIANO:

22 Q. Good afternoon, again, Ms. Bisignano.

23 A. Hello.

24 Q. Let's turn to what happened after January 6th.

25 A. Okay.

1 Q. Are you familiar with a messaging service call Telegram?

2 A. Yes, I am.

3 Q. What is Telegram?

4 A. It's a secure messaging that doesn't get infiltrated, so
5 that people can't hear messages and so on and so forth.

6 Q. And on January 6th and shortly thereafter, what was your
7 understanding of the ability of law enforcement to access
8 messages sent on Telegram?

9 A. I believe the same as with Signal, that they're encrypted
10 so people can't come in and read our messages.

11 Q. Did you communicate with Daniel Rodriguez and Edward
12 Badalian using Telegram?

13 A. I was on the chat.

14 Q. You say "the chat." Was that a group chat or individual
15 chat?

16 A. It was a group chat.

17 Q. Let's go to Government Exhibit 905.60. What is Government
18 Exhibit 905.60?

19 A. It says Patriots MAGA Gang.

20 Q. And do you see, indicated on this screen, where it says "DJ
21 Rodriguez added Gina Bisignano"?

22 A. Yes.

23 Q. For the record, I'll state that this is a Telegram message
24 from January 9th, 2021.

25 A. Yes.

1 Q. Based on this, who invited you to join this Telegram group?

2 A. Daniel Rodriguez.

3 Q. Okay. We can pull that exhibit down. Are you familiar
4 within InfoWars?

5 A. I am, yes.

6 Q. What is InfoWars?

7 A. InfoWars is Alex Jones. He is an alternative media source.

8 Q. Have you ever been a guest on any InfoWars shows?

9 A. Yes, Bannon's War Room, yes.

10 Q. The show is called War Room?

11 A. With Owen Shroyer, yes.

12 Q. Can you describe how you came to be a guest on War Room?

13 A. After January 6th, I contacted the filmmaker for Alex
14 Jones, and I said, I have some crazy footage and I would like
15 to give it to you. He said, okay, let me come over. He came
16 to my apartment and he took my phone and downloaded all the
17 footage.

18 Q. And what happened after that?

19 A. I believe -- oh, he called me, yeah. He's like: Gina,
20 they want you on the show.

21 Q. Was anyone else a guest on that same show with you?

22 A. Ed was, yes.

23 Q. And do you know how Mr. Badalian came to be a guest on the
24 War Room?

25 A. I believe I asked him.

1 Q. Had that show asked you to be in touch with Mr. Badalian?

2 A. Yes, from what I recall.

3 Q. And did you discuss your appearance with Mr. Badalian
4 before you went on?

5 A. I'm sure I did, briefly. Or -- I don't recall. Again, I
6 guess -- I don't know if it was him first or me first.

7 Q. But do you recall Mr. Badalian giving you any instructions
8 before you appeared on the War Room?

9 A. He -- yeah. He just said he was going to go by "Turbo."

10 Q. So rather than his real name, he wanted you to call him
11 Turbo?

12 A. Yes.

13 Q. Do you know why Mr. Badalian asked to be called Turbo?

14 A. Well, he doesn't want everybody to know his name.

15 Q. Why?

16 A. Because if somebody were to look in on the chat and -- he
17 just wants to be anonymous.

18 Q. Did you understand that that request to use a pseudonym was
19 based on what had happened on January 6th?

20 MR. HELFEND: Your Honor, I'm objecting.

21 THE COURT: All right. Did he explain why he wanted
22 to go by the name Turbo?

23 THE WITNESS: I don't recall, but I know he wanted to
24 protect himself and he wanted me to protect myself and be safe.

25 THE COURT: All right. Had he ever told you that

1 before January 6th, not to call him by his name?

2 THE WITNESS: Oh, no, no, no, no.

3 THE COURT: All right. Ask your next question.

4 BY MR. MARIANO:

5 Q. Just to clarify. Did you have an understanding that the
6 reason he was asking you to call him Turbo was because of
7 January 6th?

8 A. I mean, we were at January 6th, so, most likely.

9 Q. Did Mr. Badalian in fact also appear as a guest on
10 InfoWars?

11 A. Yes.

12 Q. Excuse me, the War Room?

13 A. Yes.

14 Q. Let's go to Government Exhibit 303, and let's play from the
15 beginning of the video until 42 seconds.

16 (Video played.)

17 We are paused at 44 seconds. Do you recognize the voice
18 that's being interviewed off camera?

19 A. That's Ed.

20 Q. And how is the host of the show addressing Mr. Badalian?

21 A. Turbo.

22 Q. Let's continue playing from 44 seconds to 2 minutes and 42
23 seconds.

24 (Video played.)

25 We are paused at 2 minutes, 42 seconds. Mr. Badalian

1 said: We're not here to smash the building. We're not here to
2 destroy the property. We're here for the traitors. We're here
3 to protest the election steal. Did you hear that?

4 A. I did.

5 Q. And who did you understand him to be referring to when he
6 said "traitors"?

7 A. The people who cheated on the election, stole the election,
8 like the Biden administration.

9 Q. Let's resume and watch from 2 minutes and 42 seconds until
10 the end of the video.

11 (Video played.)

12 Let's pause it there, actually. We're paused at 5
13 minutes exactly.

14 Is that you being interviewed?

15 A. Yes.

16 Q. You just mentioned Ed.

17 A. Yes.

18 Q. Who were you referring to?

19 A. Ed Badalian.

20 Q. Why didn't you call him Turbo?

21 A. I just forgot at that moment.

22 Q. Let's back up to --

23 A. It wasn't done purposely, I just forgot.

24 Q. Let's back up and play from 4:50 until the end of the clip.

25 (Video played.)

1 Let's go to Government Exhibit 905.61, which is a
2 Telegram message from January 9th, 2021.

3 Do you see the message from yourself at the bottom of
4 the screen?

5 A. I do. Yes, I do.

6 Q. And I think this continues into the next exhibit. We'll go
7 to Government Exhibit 905.62, also a Telegram message from
8 January 9th, 2021.

9 So what is this?

10 A. That's the show we were on, War Room.

11 Q. You're sharing the link to that interview?

12 A. Yes, I am.

13 Q. And these are from the Patriots 45 MAGA Gang Telegram
14 group?

15 A. Yes.

16 Q. Did you ever discuss the interview on the War Room with
17 Mr. Badalian after the fact?

18 A. I recall. (Nods head.) I recall.

19 Q. And what did he say?

20 A. Just -- I just remember everybody was a little mad at me
21 because I slipped, and they just wanted me to protect myself.

22 Q. And you say everyone was a little mad at you, who are you
23 referring to?

24 A. Just, like, girl -- the girl that loves -- in love with
25 him, called me a rat and everything, and Jeff.

1 Q. Did everyone who was mad at you include Mr. Badalian?

2 A. Well, he wasn't -- he never got nasty or mad at me, yeah,
3 he just was like --

4 Q. What did he -- I'm sorry. Please finish.

5 A. "You're supposed to call me -- you called me my name."

6 Q. Do you recall when you had that discussion with him where
7 he was saying that you should have called him Turbo and not Ed?

8 A. It was after that.

9 Q. Do you recall where that happened?

10 A. I recall that it was at my kitchen table, from what I
11 recall. I could be wrong, but from what I remember in my head.

12 Q. So let's talk about this meeting that happened at your
13 home. Who was there?

14 A. From --

15 MR. HELFEND: Objection as to time, Your Honor.

16 THE COURT: All right. How soon after the interview
17 did people first call you who were mad at you -- contact you?
18 Did they call you up?

19 THE WITNESS: That girl, Bryna, did, yes.

20 THE COURT: Okay. Was it the day of the interview,
21 the next day?

22 THE WITNESS: It was, like, a couple days later.
23 Called me an idiot and stupid.

24 THE COURT: Okay. And then how long after that did
25 the people appear -- did you have any conversation with Ed at

1 all before he was in your house?

2 THE WITNESS: Briefly. We talked about being on the
3 show.

4 THE COURT: Okay. After you were on the show and you
5 made your mistake, did you speak to Ed about it before he was
6 at your house?

7 THE WITNESS: I don't recall. It was a long time ago.

8 THE COURT: And when did they come to your house?

9 THE WITNESS: I believe on the way home from the
10 Capitol. On the ride home.

11 THE COURT: So were you still in D.C. when you were
12 talking to InfoWars on the phone?

13 THE WITNESS: No, I was at my --

14 THE COURT: You were already home?

15 THE WITNESS: I was in, yep, Beverly Hills.

16 THE COURT: All right. We've got people at your
17 house. Do we have a date for that? Do you know what date that
18 happened?

19 THE WITNESS: It was after the 7th.

20 THE COURT: The 7th was when you were on InfoWars?

21 THE WITNESS: 7th or 8th, yes.

22 THE COURT: All right. Go ahead.

23 THE WITNESS: Very shortly after.

24 BY MR. MARIANO:

25 Q. Just to clarify -- okay. Was it within a couple days of

1 that?

2 A. Yes, yes, yes.

3 Q. So you mentioned that they were coming back from D.C., is
4 that right?

5 A. Yes.

6 Q. Who was coming back from D.C.?

7 A. Jeff, Ed, DJ, the people that were with them.

8 Q. Did you know, where they all driving together or were they
9 driving separately?

10 A. I believe they were driving together.

11 Q. Do you recall who drove there?

12 A. I recall Gabe telling me that they took turns.

13 Q. So they arrived at your home, and tell us how this meeting
14 started.

15 A. Well, one of the guys that was there, I believe, had a
16 crush on me and I had a crush on him -- I don't remember which
17 one it was, but it was one of those things. And they said:
18 Hey, we want to come over. Jeff wants to come over. Is it
19 okay? And I'm like: Sure. And I gave him my address and they
20 came over.

21 Q. Jeff was the individual that --

22 A. With the long hair, yes.

23 Q. But, the individual that you thought either had a crush on
24 you or you had a crush on him?

25 A. Yeah.

1 Q. So what did Jeff do when he arrived with DJ and Ed at your
2 home?

3 MR. HELFEND: Objection, Your Honor. Assumes facts
4 not in evidence.

5 THE COURTROOM DEPUTY: Turn the microphone on,
6 please.

7 MR. HELFEND: Your Honor, that assumes facts not in
8 evidence. So far the government has been saying: They came
9 over. They came over. They came over. They have not
10 established that. So when the government says: What did Ed
11 do --

12 THE COURT: All right. All right. Fine.

13 MR. HELFEND: -- vague as to -- vague. Thank you.

14 THE COURT: All right. All right. Who came to your
15 house on the day that anyone came to your house to talk about
16 InfoWars?

17 THE WITNESS: It was after the InfoWars.

18 THE COURT: Right. Who came?

19 THE WITNESS: From what I recall, Ed, DJ, Jeff, and
20 Gabe, from what I recall in my head. I don't know if Gabe was
21 there that day or the next day, but --

22 THE COURT: Gabe?

23 BY MR. MARIANO:

24 Q. We haven't talked about Gabe. Who is Gabe?

25 A. He's another friend.

1 Q. Okay. So when at least these three individuals,
2 Mr. Rodriguez, Mr. Badalian, and Jeff come to your home, what
3 do they do?

4 A. I remember Jeff telling me to -- I have to be careful
5 because the guy from the *Courier* was not to be trusted, and I
6 trust too many people and I needed to be careful and --

7 Q. Okay. Let's back up. What's the *Courier*?

8 A. Oh, it's a Beverly Hills local magazine that reports on
9 every single thing I did after I got out of jail, yeah.

10 Q. And what had been happening with respect to the *Courier*
11 prior to that meeting?

12 A. Well, there was a video of me saying we need weapons, we
13 need stronger, angry patriots for protection. And he said:
14 Gina, you said this on the video. And I said: No, I didn't.
15 He goes: Yes, you did. And I saw the video, I go: I guess I
16 did, because I didn't remember. And he said: If you don't
17 tell me what happened, your side, I'm just going to write my
18 side. So I panicked and I gave him my side.

19 Q. So you did an interview with a reporter?

20 A. I did. I thought I had to.

21 THE COURT: Was this before InfoWars or after
22 InfoWars?

23 THE WITNESS: This was after.

24 THE COURT: But before the people showed up at your
25 house?

1 THE WITNESS: The *Courier* was after, yeah.

2 THE COURT: The *Courier* interview was after the
3 people showed up at your house?

4 THE WITNESS: I believe. It was two years ago. So I
5 think so, yes.

6 THE COURT: All right. What we're trying to find out
7 is what happened when they came to your house after InfoWars.
8 Did they talk about InfoWars or did they talk about the
9 *Courier*?

10 THE WITNESS: No, they just said: You messed up.
11 You called him by the name, you can't do that. They talked
12 about how I needed to be careful, mainly Jeff saying, you know,
13 don't trust everybody.

14 BY MR. MARIANO:

15 Q. Did Jeff do anything with respect to electronics in your
16 home?

17 A. He unplugged my Alexa.

18 Q. Do you know why he did that?

19 A. He said because they were listening.

20 Q. Do you remember a note being written down at this meeting?

21 A. I don't recall if it was the first meeting or the second
22 meeting, but I said: We don't talk. I wrote: We don't talk,
23 because he was, like, miming to me. And I'm like: We don't
24 talk, I said to Jeff.

25 Q. I want to clarify. I'll put up the note in a minute. But

1 when the note was written, was that when Mr. Rodriguez and
2 Mr. Badalian and Jeff were all present?

3 A. You know, I don't recall. I know DJ was there for sure.

4 Q. Okay. Let's pull up Government Exhibit 521.

5 A. I just don't -- yeah, I don't remember.

6 Q. What is Government Exhibit 521?

7 A. "We don't talk," is what I said to him.

8 Q. So you wrote this portion, "We don't talk"?

9 A. Yes.

10 Q. And why did you write that?

11 A. Because he was acting kind of strange, like shh, shh, shh.
12 And he never called me because he didn't have a phone. He was
13 worried, you know. And I didn't understand, and I was -- yeah,
14 I didn't understand.

15 THE COURT: Before, earlier, you said he was miming,
16 is that what you said?

17 THE WITNESS: Kind of like (indicating) -- because
18 the Alexa.

19 THE COURT: So he was making hand gestures? What
20 kind of hand gestures?

21 THE WITNESS: Yes. (Indicating.)

22 BY MR. MARIANO:

23 Q. And then the remainder of the note, who wrote the remainder
24 of the note?

25 A. Jeff.

1 Q. And what does that say?

2 A. "I want to help you delete everything, transfer the files
3 to a secure hardware."

4 Q. I'm approaching the witness with what has been marked as
5 Government Exhibit 801.

6 Ms. Bisignano, can you open up Government Exhibit 801?

7 What is Government Exhibit 801?

8 A. It's my notebook.

9 Q. And can you find the page that is reflected in Government
10 Exhibit 521?

11 A. Yes.

12 Q. And is this accurately reflected in Government Exhibit 521
13 as the same page of the note that was written?

14 A. Yes.

15 Q. So, I want to clarify -- you can set that aside for a
16 moment. You testified that you weren't sure if Mr. Rodriguez
17 and Mr. Badalian were present when this note was written, is
18 that right?

19 A. It's -- I don't recall.

20 Q. Do you recall giving grand jury testimony in this case?

21 A. Yes, I do. I do.

22 Q. Would it help refresh your recollection --

23 A. Yeah.

24 Q. -- to review portions of your grand jury testimony?

25 A. Yes, please.

1 Q. So if we can pull up on the screen from page 24 -- well,
2 let me -- actually, let's stay on the first page.

3 Is this your grand jury testimony?

4 A. Yes.

5 Q. And if we can go to page 24.

6 Actually, let's start on page 23. I'm just going to ask
7 you to review both pages 23 and 24.

8 (Pause.)

9 When you've read page 23, let us know and we'll move on
10 to page 24.

11 A. Okay.

12 (Pause.)

13 Okay.

14 Q. Then going on to page 24.

15 (Pause.)

16 A. Okay.

17 Q. Does that refresh your recollection?

18 A. Yes.

19 Q. Great. We can take down the grand jury testimony.

20 So let me ask again: When this note was written, do you
21 remember who was present?

22 A. I remember for sure that Ed was there and -- because there
23 was two times -- and I believe DJ was there, but I don't recall
24 if Ed was there the day of the note.

25 Q. And what did you -- what do you recall Mr. Badalian saying

1 at that meeting?

2 A. That day?

3 Q. Yes.

4 A. Well, they were a little nervous, and I said: Why are you
5 guys nervous? I've been destroyed by the left and TMZ, and
6 it's not that big of a deal, don't be a baby, blah, blah, blah.
7 And he's like: Oh, you forgot to call me by my name, Turbo.

8 Q. Did you understand that all three men, Mr. Badalian,
9 Mr. Rodriguez, and Jeff, all wanted you to delete your videos?

10 A. I know that definitely Jeff did and DJ.

11 Q. So I'm going to pull up your grand jury testimony again.
12 If we can start with the first page.

13 Is this the same grand jury testimony that we were just
14 looking at?

15 A. Yes.

16 Q. And you gave this testimony under oath?

17 A. I did.

18 Q. Let's go to page 23. And if you can read silently as I
19 read aloud from lines 19 through 23.

20 Question: And previously when we've talked about this,
21 I think you mentioned that all three of them did want you to
22 delete what you have; is that accurate?

23 Answer: From what I recall, yes. They were warning me
24 not to talk to people.

25 Was that your sworn testimony?

1 A. Yes.

2 Q. Thank you. We can pull that down.

3 Do you remember at that meeting any references to
4 casualties of war?

5 A. I do.

6 Q. What was said with respect to casualties of war?

7 A. So, I was very upset because Ashli Babbitt had gotten shot
8 and it really bothered me. And I said to D -- I believe it was
9 DJ -- it was DJ, I said, I'm very -- I'm so upset about this
10 girl dying. And he said: One casualty in the line of war --
11 and then I don't remember the rest of it. It wasn't -- it's
12 not so bad or it's to be expected, one of those.

13 Q. Who said: That's not so bad?

14 A. DJ.

15 Q. Did you have any further interactions with Jeff after this
16 note was written?

17 A. I saw him twice.

18 Q. Was there an incident where you went to Best Buy?

19 A. We were supposed to go, but we didn't.

20 Q. Okay. Can you tell us about that meeting?

21 A. Yes. My phone rang, it was a restricted. I picked it up
22 and he's like: Hey, it's Jeff, I'm downstairs. This is
23 something I do remember. And he came upstairs. I don't
24 remember every word we said, it was a long time ago. I
25 remember him saying: We have to take care of your files and go

1 to Best Buy and put them on a -- another disk.

2 Q. And what happened next?

3 A. I remember we got in my car and we drove around. I believe
4 I had a call last-minute for a client and we didn't end up
5 going to Best Buy.

6 Q. Let's go to Government Exhibit 604.01.

7 THE COURT: The Best Buy drive was just you and
8 Jeff --

9 THE WITNESS: Yes.

10 THE COURT: -- the others were not in the car?

11 THE WITNESS: Yes.

12 THE COURT: So there was a time when people came to
13 your house, and you said it was on their way back --

14 THE WITNESS: Um-hum.

15 THE COURT: -- from Washington?

16 THE WITNESS: Yes.

17 THE COURT: Now, the conversation, when it was their
18 way back from Washington, was that the one with the notebook?

19 THE WITNESS: No.

20 THE COURT: It was another time that they came back
21 on their way from Washington and came to your house?

22 THE WITNESS: Yes. No. Right after D.C. they came
23 over, but Jeff came over again. Yeah.

24 THE COURT: Okay. I'm talking about the time that
25 they came over right after Washington. Who is the "they"?

1 THE WITNESS: From what I recall, because it was a
2 long time ago, I'm assuming, in my mind, it was all three of
3 them. But for some reason I see this guy Gabe there, too, and
4 I know he wasn't on the ride.

5 THE COURT: Okay. All right. And there are only two
6 meetings with Jeff, right?

7 THE WITNESS: Yes.

8 THE COURT: So the time that they were coming from
9 D.C., was that the time when you wrote in your notebook?

10 THE WITNESS: It could have been that time or it
11 could have been -- you know, it was so long ago.

12 THE COURT: Well, did they talk about the Turbo/Ed
13 thing the first time?

14 THE WITNESS: Yes. Yes.

15 THE COURT: Go ahead.

16 BY MR. MARIANO:

17 Q. Do you recall approximately when you testified in the grand
18 jury?

19 A. I believe it was maybe four months after I got out of
20 jail -- March, April, May, June, July, August. Five months, I
21 think. Yeah.

22 Q. You added August. August 2021?

23 A. Yeah, yeah, because that's in March, April, May, June,
24 July, August. So about five months.

25 Q. And how do you think your memory of what happened shortly

1 after January 6th was at that time compared to today?

2 A. I mean, I'm sure it was better, because I don't -- there's
3 a lot of things that stick out in my head, but there's a lot of
4 things that I have to be reminded of.

5 Q. Okay. So we have on the screen here Government Exhibit
6 604.01, which is a Telegram message from January 11th, 2021.
7 Is this a screenshot from your phone?

8 A. It's from Patriots MAGA Gang.

9 Q. Yes, but is that pulled up from your phone?

10 A. I assume it is. I mean, I don't know. But -- because it
11 could be my phone, it could be somebody else's phone.

12 Q. Do you see the messages written on the right-hand side of
13 the screen?

14 A. Yes.

15 Q. And --

16 A. That's me.

17 Q. Are those messages that you sent?

18 A. Yes. Yes.

19 Q. Does that indicate to you whether this is your phone or
20 not?

21 A. Yes.

22 Q. Can you describe the message that you send at 8:50 p.m.?

23 A. I sent them with how I was getting trashed. So I sent a
24 picture out to everybody.

25 Q. And what's the photograph of?

1 A. It's a photograph of me and a random person that was
2 standing next to me at the Capitol.

3 Q. From January 6th?

4 A. Yes, sir.

5 Q. And can you read the response from DJ?

6 A. Remember, everyone, don't share these pics.

7 Q. Is DJ here DJ Rodriguez?

8 A. He is not here.

9 Q. Sorry. Is the individual identified as DJ in the message,
10 is that DJ Rodriguez?

11 A. Yes. Yes.

12 MR. MARIANO: Thank you, Ms. Bisignano. Nothing
13 further.

14 THE COURT: All right. Any cross-examination?

15 THE WITNESS: Thank you.

16 CROSS-EXAMINATION

17 BY MR. HELFEND:

18 Q. Good afternoon, Ms. Bisignano.

19 A. Bisignano.

20 Q. Bisignano?

21 A. Bisignano.

22 Q. Bisignano?

23 A. "Gnano," yes. Like a silent G.

24 Q. Bisignano?

25 A. It's okay.

1 Q. B --

2 MR. HELFEND: Your Honor, can I call her Ms. B, or
3 no?

4 THE COURT: Ask her.

5 MR. HELFEND: Huh?

6 THE COURT: Ask her.

7 THE WITNESS: Sure. Why not. I've been called
8 worse. That's fine.

9 BY MR. HELFEND:

10 Q. No, I don't mean that.

11 Anyway, so, I really wanted to -- so, we saw a lot of
12 these videos of where you were and what you were doing. You
13 seem to be all over the Capitol building that day, is that
14 right?

15 A. Yes, sir.

16 Q. And you were in the tunnel?

17 A. Yes, sir.

18 Q. And did you have your megaphone when you were in the tunnel
19 then, or --

20 A. It's not my megaphone. I never bought a megaphone.

21 Q. Oh, okay. Did you have that megaphone when you were in the
22 tunnel?

23 A. I did not.

24 Q. Okay.

25 A. From what I recall.

1 Q. Were you there -- did you -- do you know that they were
2 doing a heave-ho back and forth in that tunnel, the --

3 A. I remember --

4 Q. -- the protestors pushing and the police pushing back?

5 A. Yes, I do remember.

6 Q. You were there for that?

7 A. Yes, I do remember that.

8 Q. Were you -- I mean, I've been watching you, your face, and
9 when you see -- I've been seeing that when you see yourself on
10 the -- at least using the bullhorn, you seem to be --

11 A. Embarrassed.

12 Q. -- putting your head -- hands to your head. And are you
13 embarrassed now? Is that what you're doing? I'm just --

14 A. A lot has happened because of that.

15 Q. Right.

16 A. So, I would say that I was embarrassed after, yes.

17 Q. Okay. And so -- so when you were in the tunnel, were you
18 egging them on?

19 A. Who's "they"?

20 Q. I mean the protestors.

21 A. I would say it was -- we were all equal, I would say.

22 Yeah, yeah.

23 Q. Okay. And so eventually I saw you inside the Capitol. Did
24 you go through the doorway, that doorway, or you got in another
25 way?

1 A. No, I went through the window. Yes.

2 Q. Okay. So then -- eventually then you went out that tunnel,
3 and I believe you said you made a right turn?

4 A. Yes, sir.

5 Q. And then you got up to that window?

6 A. Yes.

7 Q. And that's where you -- somewhere between there and the
8 window --

9 A. Someone handed me a megaphone.

10 Q. Handed you a megaphone. And that's where you were talking
11 about 1776, right?

12 A. Yes. Yes.

13 Q. I heard you say: They won't --

14 A. Take away --

15 Q. -- take our votes anymore. We won't stand for them taking
16 our votes? What did you say?

17 A. They're not going to take away our votes and our voices.

18 Q. And who is "they" when you were saying that?

19 A. At the time I meant the Biden administration and the people
20 that cheated on the election.

21 Q. Okay. You say at the time?

22 A. Yes, sir.

23 Q. Now, I have seen some -- I've read some of your interviews
24 and I think you've mentioned that you maybe had some alcohol or
25 something?

1 A. I did, yes.

2 Q. Okay. So when you were on the window there like that, were
3 you -- do you think that you were under the influence of
4 alcohol?

5 A. I was under the influence of one or two shots, and the gas.

6 Q. And the gas.

7 A. Yes, from all around me.

8 Q. Okay. So when you're on the window -- when you talk about
9 the gas, are you talking about teargas?

10 A. Yes. It was everywhere.

11 Q. It was everywhere?

12 A. Yes.

13 Q. Okay. And so you -- in the beginning of -- so, you have
14 pled guilty and you admitted -- you took responsibility for
15 what you did awhile ago, right?

16 A. I did, sir, yes.

17 Q. And you pled guilty to a few felonies?

18 A. Yes, sir.

19 Q. And you want to withdraw the plea to only one?

20 A. Yes, sir.

21 Q. Okay. But the other felonies are still pending, right?

22 A. I believe I -- it's one felony and misdemeanors.

23 Q. Okay. And you're aware of the guidelines, the federal
24 guidelines?

25 A. Yes.

1 Q. Okay. Do you know, without cooperation, what your
2 guideline --

3 A. I go to jail.

4 Q. What?

5 A. I'm going to jail, 41 months.

6 Q. Okay. That's what I was asking. So, all right.

7 So when you come and you testify, if the government
8 thinks you gave them substantial assistance, then they will
9 recommend to your sentencing judge something less than the 41
10 months. Is that your understanding?

11 A. Yes, sir.

12 Q. Okay. And they -- no, they have not promised you anything,
13 right?

14 A. No.

15 Q. Okay.

16 A. No, not them at all.

17 Q. I've noticed -- on January 30th of 2022 you were recorded
18 on a Telegram audio streaming program called The Prisoners
19 Record?

20 A. Yes. It's a prayer record. It's like a prayer and nightly
21 call.

22 Q. And you -- you were saying you regret taking the deal and
23 you're encouraging other January 6th defendants not to plead.
24 Is that true?

25 A. Partially.

1 Q. Partially. Okay. Do you feel that way?

2 A. Because I feel that I have no choice because I was
3 everywhere on the megaphone. I need to take a deal because I
4 don't want to go to jail. So I had no choice. I also didn't
5 want to seem like a wimp because all those people were, like,
6 you should never do a plea deal, don't cooperate, don't do
7 this.

8 Now, this is people that support us, they're
9 supporters that get together, they're Christians, every night.
10 And I didn't want to seem like a traitor.

11 Q. A traitor for --

12 A. Just -- for my country. Like I just -- I didn't want to
13 seem like --

14 Q. Well, you would agree, though -- you would agree that you
15 broke the law?

16 A. Yes.

17 Q. Okay. You also filed a lawsuit against TMZ?

18 A. Absolutely.

19 Q. December 12th of 2022?

20 A. Yes.

21 Q. Did they post something about you?

22 A. They did.

23 Q. Was it bad?

24 A. It was really bad.

25 Q. What was it?

1 A. Um -- I was with a group of people and somebody came over
2 and coughed in my face, she hit me in the chest. And then her
3 husband fell on my dog and strangled her, the leash, and I lost
4 my temper.

5 Q. And you called him a name?

6 A. Yes, I did.

7 Q. And they --

8 MR. MARIANO: Objection, Your Honor. Relevance.

9 BY MR. HELFEND:

10 Q. -- posted --

11 A. Yes.

12 THE COURT: Where are we going with the lawsuit?

13 MR. HELFEND: What? I can't hear you.

14 THE COURT: What is the relevance of the lawsuit in
15 this line of questioning? Does it relate to --

16 MR. HELFEND: It will -- and I will tie it up.

17 THE COURT: All right. I'll give you a little leeway
18 here.

19 MR. HELFEND: Let me get to the next question here.

20 THE COURT: All right.

21 BY MR. HELFEND:

22 Q. So because of the lawsuit, you were doxxed?

23 A. Yes.

24 Q. Okay. Now, would you describe or explain to Her Honor and
25 myself, because I don't know, what does "doxxed" mean?

1 A. Okay. So doxxed is where they put your name, address, and
2 where you work, your telephone number -- and I was harassed
3 from the morning, in the evening, due to the exposure of my
4 phone number, my work, my --

5 Q. So when --

6 THE COURT: But it was posted in connection with the
7 incident with the couple and the dog -- your dog?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Was it posted in connection with January
10 6th?

11 THE WITNESS: No, ma'am.

12 THE COURT: Okay.

13 THE WITNESS: It was a month before.

14 THE COURT: The incident was before January 6th?

15 THE WITNESS: Yes.

16 THE COURT: Okay. Go ahead.

17 MR. HELFEND: I'm going to get to what doxxed -- I
18 can do it now, but --

19 THE COURT: I'm all ears. I want to hear --

20 MR. HELFEND: I can do it now, but I wanted to get to
21 it later.

22 THE COURT: You do what you think you need to do.
23 I'll stop you -- you'll know when I stop you. I haven't
24 stopped you.

25 MR. HELFEND: Sure. I know that's coming.

1 BY MR. HELFEND:

2 Q. Okay. So let's just skip ahead then, so that I don't
3 forget.

4 I just want to talk briefly about the meeting with Ed.

5 A. Okay.

6 Q. Then we'll come back to it.

7 A. Okay.

8 Q. But since we are on to the doxxed --

9 A. Sure.

10 Q. Now, Ed had said to you, when you -- you know, you go on
11 this InfoWars thing, "Don't use my real name," right?

12 A. (Nods head.)

13 Q. Okay. Now, do you know whether or not he was concerned
14 about being doxxed if you used his real name?

15 A. Yes, that's why. There was many reasons.

16 Q. It's called -- what --

17 A. There's many reasons. If you let your name known, they'll
18 destroy you.

19 Q. Exactly. So, in other words, if you had -- if Ed -- if you
20 were to go online -- or, InfoWars, is that an online -- is it
21 on television or is this online?

22 A. It's everywhere, yeah.

23 Q. Okay. And so if you go on to this show InfoWars and you
24 were to say -- or, you were to tell them: Here's my friend, Ed
25 Badalian, he was fighting antifa. In one sense, you heard

1 that -- the commentator say he was a hero, correct?

2 A. I have.

3 Q. But on the other side of that -- the other side of that, Ed
4 was concerned about being doxxed on social media, correct?

5 A. Now that I recall, it was a big issue with everyone.

6 Q. Okay.

7 A. Yes.

8 Q. Okay. But I don't care about everyone, I just want to talk
9 about Ed. Okay?

10 A. Okay.

11 Q. But the reason why he told you don't use my name on the
12 InfoWars is because he didn't want to be doxxed?

13 A. From what I remember, yes, now that you brought it up.

14 THE COURT: And so when did this happen? Where were
15 you? Where was he?

16 THE WITNESS: Judge, I don't recall.

17 MR. HELFEND: I can --

18 THE COURT: So when he told you before InfoWars not
19 to use his name, did he give you a reason?

20 THE WITNESS: He just said: I'm going to go by
21 Turbo. He didn't give me a particular reason at that moment,
22 from what I recall.

23 THE COURT: Okay. And so afterwards, when everybody
24 was upset about it -- and he's one of the "everybodies" -- when
25 did he communicate that to you?

1 THE WITNESS: He wasn't as much as that girl was,
2 this one particular girl, saying: You're an idiot and a
3 sellout. I don't recall Ed -- he's never been nasty or
4 anything to me, ever. The girl has. She was like: You idiot,
5 you stupid, blah, blah, blah.

6 THE COURT: So you said something earlier about Ed at
7 your kitchen counter. Was he ever at your kitchen counter
8 talking about the fact that you called him Ed?

9 THE WITNESS: I recall him being at my kitchen table
10 with DJ, but I don't recall that conversation directly.

11 THE COURT: Go ahead, Mr. Helfend.

12 MR. HELFEND: Thank you, Your Honor.

13 THE WITNESS: I do recall the conversation, but not
14 exactly the person or the people because it was two years ago.

15 THE COURT: Okay.

16 BY MR. HELFEND:

17 Q. Now, you saw -- you saw Government's Exhibit 422, and you
18 saw that Ed came through the crowd and he had pulled somebody
19 off the windowsill -- actually, where you were standing; is
20 that right?

21 A. Yes, sir.

22 Q. Okay. And was the guy that was -- it was a guy that was
23 doing -- that was hitting the window, correct?

24 A. Yes.

25 Q. And the guy was hitting the window. Was he using an ice

1 pick?

2 A. I believe he was, from what I recall, because I saw a
3 video.

4 Q. A lot of times when I ask you a question I see you looking
5 over here (indicating).

6 A. I'm just looking.

7 Q. Are they intimidating you? That's all I'm asking.

8 A. No. No. Just my life is a little --

9 Q. Are you looking over --

10 A. I'm just looking.

11 Q. Okay.

12 A. I look at the judge, too, so --

13 Q. And he was hitting the window with an ice pick and you saw
14 Ed pull him off the window, right?

15 A. I did.

16 Q. Okay. And I believe your testimony was that Ed believed
17 that it was antifa, correct?

18 A. Correct.

19 Q. Is that right?

20 A. Correct.

21 Q. And a woman was -- said Ed was pulling antifa off the
22 window, is that correct?

23 A. Correct.

24 Q. Okay. And before that Ed pulled the person off the window,
25 is it true that the crowd was yelling: Antifa, antifa?

1 A. Yes.

2 Q. Now --

3 THE COURT: So who started the yelling, that woman?

4 THE WITNESS: Yes, the woman, and the crowd.

5 MR. HELFEND: Okay. Could you go to Government
6 Exhibit 308.

7 (Off-the-record discussion between Mr. Helfend and
8 government paralegal.)

9 BY MR. HELFEND:

10 Q. I want to show you a video, it's Government Exhibit 5020 --
11 I mean, it's Government Exhibit 308 at 50:20. Keep going.

12 (Video played.)

13 Stop.

14 Okay. Now, this is stopped exactly at 50:24. And
15 you're having a conversation with Ed right there, correct?

16 A. Correct.

17 Q. Okay. You guys are having a little bit of a conversation.
18 I believe that you're -- were saying that you were angry at the
19 time. But isn't it true that you -- at that time, you told Ed
20 that antifa might be inside the building at the time?

21 A. Oh, everybody was saying that, yes.

22 Q. Okay.

23 A. That I remember because they said three busloads came.

24 So --

25 Q. So what I'm saying here is --

1 A. I don't remember that particular moment, but now that you
2 bring that up, yes.

3 Q. Okay. So what I'm saying is before that Ed went in this
4 window right here --

5 A. Okay.

6 Q. -- this was after he had -- this was after he had taken the
7 antifa guy off the window, right?

8 A. Yes.

9 Q. Okay. And so now this is minutes later because now the
10 window is gone completely?

11 A. Right.

12 Q. And so he's made his way to talk to you. I don't know if
13 you had -- I don't know if you had called him over or not at
14 this point. Do you know?

15 A. I don't recall. You'll have to play something.

16 Q. And so you're having a conversation with him right here and
17 this time here you say, you know: Ed, antifa is inside right
18 now. Isn't that what you just said?

19 A. So, I recall, now that you say that, because we did talk
20 about that. Yes --

21 Q. Thank you.

22 A. -- and three busloads.

23 THE COURT: Right there? Right then you talked about
24 the three busloads?

25 THE WITNESS: You know, I didn't remember, but when

1 he said that it brings back the times. And, unfortunately, it
2 was so long ago, and I'm not that young, so I have to be a
3 little reminded. But, yeah, they were talking about there was
4 three busloads, they said they just came, and then nobody saw
5 anybody dressed as antifa, so --

6 BY MR. HELFEND:

7 Q. Okay. Could we go to Exhibit 305.

8 Now, I want to show you some of these -- some of these
9 shots inside, so that the record is clear about what we are
10 seeing.

11 (Video played.)

12 Okay. Right there. Play it from there.

13 (Video played.)

14 Stop. Stop it right there. Thank you.

15 Now, we stopped the video at 4:26, and you've already
16 said that this was Ed straightening the chair. Did you see
17 that?

18 A. Can you play that again, sir?

19 (Video played.)

20 Q. Stop it.

21 Now, was that -- Ed is the one who straightened that
22 chair, is that right?

23 A. I see the person. But the hat, red hat -- it looks to have
24 his clothes on, but I didn't see the actual --

25 Q. Okay. You had previously -- when the government was --

1 when the government lawyer was questioning you, you had
2 identified that person straightening the chair as Ed. So do
3 you want --

4 A. No, they showed me a different shot. So let's look at
5 that, like -- because -- yeah.

6 Q. I want to just get to a point here.

7 A. I thought I saw more of him --

8 Q. I got it.

9 A. -- because here I can't see. Okay? I mean, I see his
10 outfit, his red hat. But it's clear as day, you cannot see
11 from this angle.

12 Q. Who it is?

13 Can you back it up?

14 (Video played.)

15 You know the guy -- okay, forward.

16 (Video played.)

17 You know this person here with the American flag on --

18 A. I do.

19 Q. -- and that's Jeff, correct?

20 A. Yes.

21 Q. Okay.

22 A. Correct.

23 Q. Can we do frame by frame?

24 (Video played.)

25 You can't really see.

1 THE COURT: Are you testifying?

2 MR. HELFEND: No. I'm sorry, Your Honor.

3 THE COURT: Okay.

4 MR. HELFEND: Okay.

5 THE COURT: You have made many assertions of fact in
6 your questions and I just think you need to be careful about
7 that.

8 MR. HELFEND: Okay.

9 Now stop it right there.

10 Without -- this video here, which is 305, correct?

11 THE PARALEGAL: (Nods head.)

12 BY MR. HELFEND:

13 Q. This is 305 and it is at 4:25.

14 I believe the government said at this point, in another
15 video, that Mr. Badalian straightened the chair so that the
16 door can open and people could go in --

17 MR. MARIANO: Objection.

18 THE COURT: Mr. -- the government didn't say
19 anything. The government asked questions.

20 MR. HELFEND: The government said that -- on direct
21 examination, that Mr. Badalian straightened the chair so the
22 door could --

23 THE COURT: Statements of counsel are not evidence.
24 The government asked --

25 MR. HELFEND: Okay. Okay.

1 THE COURT: I think they asked if the chair was
2 blocking the door and she said yes. And then the chair gets
3 stood up so that there is ability to get out the door. And
4 they asked if he was the one who did it and showed her the
5 video.

6 MR. HELFEND: Okay.

7 THE COURT: So you can ask whatever you want to ask.

8 MR. HELFEND: Okay. Let me do that.

9 THE COURT: But they didn't testify.

10 (Off-the-record discussion between Mr. Helfend and
11 government paralegal.)

12 BY MR. HELFEND:

13 Q. Would you look at this video carefully. Now, when this --

14 (Video played.)

15 Stop it.

16 Now, when you look at the video, when the chair is
17 righted, does the door even move? Does it move? Does it go
18 open any further? When Jeff walked through the door, did the
19 door move?

20 A. Slightly, yes, it did.

21 Q. Slightly?

22 A. You're asking me: Did the door move when somebody walked
23 through it, right?

24 Q. Yeah.

25 A. Well, yeah.

1 Q. Well, did you -- did it look like, to you, that when the
2 chair was righted, that it made it easier for him to go through
3 the door?

4 A. I'm not going to make that assumption.

5 THE COURT: In any event, the video shows what the
6 video shows and the factfinder will have to draw their own
7 conclusion.

8 MR. HELFEND: Could you please --

9 (Off-the-record discussion between Mr. Helfend and
10 government paralegal.)

11 MR. HELFEND: Right here.

12 (Video played.)

13 Stop.

14 BY MR. HELFEND:

15 Q. Did you see -- this was -- now that -- we showed you the
16 same video --

17 A. Yes. Yes.

18 Q. -- 305 at 7:03.

19 A. Yes.

20 Q. Did you see Mr. Badalian walking?

21 A. I saw him on the left.

22 Q. Yes. And he's walking back towards where he came from,
23 from the door that was open, is that right?

24 A. Can you play that again for me?

25 Q. Huh?

1 A. Can you play that again?

2 (Video played.)

3 Q. He's walking back to the same room that he walked from?

4 A. Yes.

5 Q. Could we have 307 -- 307 at 59:33.

6 (Video played.)

7 Okay. 59:32. This is -- I'm now showing you Government
8 Exhibit 307 at 59:32.

9 A. Yes.

10 Q. Do you recognize somebody in the lower right-hand corner?

11 A. From the outfit, it looks like Ed.

12 Q. I made a circle. Is that Ed?

13 A. It looks like it from the outfit.

14 Q. Okay. Could you just play that, like, a second back? Not
15 that far.

16 (Video played.)

17 Now, stop it. Does it look like he is straightening a
18 different chair?

19 THE DEFENDANT: This is part of the video.

20 THE WITNESS: I can't see that, sir.

21 THE COURT: All right. If you want to say
22 something -- I think your client wanted to say something to
23 you. He just interjected his own point of view about the
24 video. So why don't you ask him what he wants.

25 MR. MARIANO: I trust Your Honor wouldn't consider

1 it, but I'd also ask that it be stricken.

2 THE COURT: I didn't hear it. I thought there was
3 something that he wanted to communicate, and since we're not
4 calling on you right now --

5 THE DEFENDANT: Yeah.

6 THE COURT: He's still waving at you, so would you
7 please go talk to him.

8 (Pause.)

9 MR. HELFEND: Could we just go to 59:32.

10 BY MR. HELFEND:

11 Q. Okay. Now, let's go right from there.

12 (Video played.)

13 Stop. Thank you.

14 Now, I just -- I'm making the record clear here. Does
15 it look like Ed was -- Mr. Badalian was straightening another
16 chair? There's a different chair than the one at the door, is
17 that right?

18 A. It appeared to be, yes.

19 Q. So at the time that you were inside the room, inside the
20 Capitol building in some of these rooms there --

21 A. Yes.

22 Q. -- you never saw Ed destroy any furniture, is that right?

23 A. No.

24 Q. You never saw Ed steal anything?

25 A. No.

1 Q. You never saw Ed use any kind of violence against anyone
2 inside the Capitol building, correct?

3 A. Never.

4 Q. And he never came up to you and said: This is fun, isn't
5 it?

6 A. No.

7 Q. Did he say: Let's -- did he want to go -- he never went
8 and he never came up to you while he was inside there and said:
9 Let's go grab some Democrats who are holding office, did he?

10 A. No.

11 Q. Okay. So I just want to bring you back to -- I just want
12 to bring you back to the -- when they all -- when DJ, Ed, and,
13 I believe, Jeff had driven back from Washington, D.C. They
14 were in a rented van, correct?

15 A. I assume.

16 Q. Okay. You don't know about that?

17 A. I didn't travel with them.

18 Q. Okay. And didn't you get visited by some people the day
19 that they got back from Washington, D.C.?

20 A. Yes.

21 Q. Okay. Now, I've done my research, and would it surprise
22 you to learn that -- would you be surprised to learn that Ed
23 was not with DJ or Jeff on the day they returned and visited
24 you?

25 MR. MARIANO: Objection, Your Honor, based on the

1 statement "I've done my own research."

2 THE COURT: Yeah, can we just not act like you know
3 something? You're not a source of information. Why don't you
4 just ask the question.

5 MR. HELFEND: Okay. I'm sorry.

6 THE COURT: I mean, it would be really inappropriate
7 if there was a jury in the box. We don't have a jury in the
8 box, but we do have a witness who is hanging on to what anybody
9 says in their questions and paying very close attention, and I
10 don't think it's proper for you to assert facts.

11 MR. HELFEND: Okay.

12 THE COURT: Go ahead.

13 MR. HELFEND: Thank you, Your Honor.

14 BY MR. HELFEND:

15 Q. So it seems that you don't have a vivid recollection of the
16 events of the first time that you were visited by people coming
17 back from Washington, D.C. Would that be fair?

18 A. I have a picture in my head. Again, it was a long time
19 ago.

20 Q. Yeah. Is it possible that the first time that you were
21 visited by people from Washington, D.C., that it was Jeff and
22 DJ, and Jeff and DJ alone?

23 A. I -- that is possible. I do recall seeing Ed at my table,
24 but it could have been at another time. I distinctively
25 remember them at my table. Now, I could be wrong, but I do

1 remember that.

2 Q. Okay. But the time that -- the time that Jeff was writing
3 notes to you, telling you -- or, intimating to you not to talk
4 to him -- or, not to speak, that was not when Ed was present?

5 A. I don't recall him being around at that moment.

6 Q. And the only time that -- that Ed ever talked to you or
7 communicated with you about his involvement in January 6th was
8 really -- it was about the InfoWars interview?

9 A. And some -- a couple things, yeah, it was.

10 Q. And --

11 THE COURT: I'm sorry. I don't understand. I don't
12 know what a "couple things" was. What do you mean?

13 THE WITNESS: Well, he wanted me to contact law
14 enforcement, I know that.

15 THE COURT: Okay.

16 THE WITNESS: And get ahead of things because we were
17 getting threats, and so I do recall that. And about the
18 InfoWars, using the name. So --

19 BY MR. HELFEND:

20 Q. When you said that Ed wanted you to contact law
21 enforcement --

22 A. The FBI.

23 Q. -- about -- he wanted to go with you to contact law
24 enforcement, isn't that right?

25 A. He mentioned, yes.

1 Q. And he was mentioning you because -- he prevented the
2 Capitol building from being damaged, isn't that what he said?

3 A. Yeah, from what I saw, he prevented somebody from breaking
4 a window.

5 Q. But that's why he wanted to go with you to speak with law
6 enforcement?

7 A. You're -- yes, my memory is coming back to that.

8 Q. And he was never -- and when he talked to you about, you
9 know, don't use my real name on InfoWars --

10 A. Yeah.

11 Q. -- he wasn't threatening, was he?

12 A. No. No.

13 Q. I mean, he's never -- are you friends with him right now?

14 A. Yes.

15 Q. Okay. But you wouldn't perjure yourself for Ed Badalian,
16 would you?

17 A. No.

18 Q. And the reason why he didn't really want -- so, let me
19 strike that.

20 You utilize social media, is that right?

21 A. Yes, sir.

22 Q. Okay. And I'm not familiar with social media as much, but
23 I wanted to ask if, when you use social media and if you have a
24 view and you express it, people who are not in line or not in
25 favor of your opinion, do they sometimes --

1 A. Dox me?

2 Q. -- say something in response to your opinion online?

3 A. Of course.

4 Q. And can it get nasty sometimes online?

5 A. It can.

6 Q. And can it get threatening sometimes online?

7 A. Oh, yes.

8 Q. And when we talk about doxxing, is doxxing worse than
9 getting threatened?

10 A. Doxxing causes threats.

11 Q. So when people reveal their real names online -- well, let
12 me go back to the MAGA -- the Patriot MAGA 45 Gang. Did people
13 on the Patriot MAGA 45 Gang, did they use their real names?

14 A. No.

15 Q. Okay. And we --

16 A. DJ used his name. So some did, some didn't, yeah.

17 Q. And just -- and just --

18 A. I used my real name.

19 (Off-the-record discussion between Mr. Helfend and
20 government paralegal.)

21 MS. PASCHALL: 607, 608.

22 MR. HELFEND: 607.

23 THE COURT: When you were on InfoWars, you called
24 yourself Gina, right?

25 THE WITNESS: Yes, ma'am.

1 THE COURT: Okay. All right. I won't ask you any
2 more questions while your lawyer is not paying attention --
3 while the lawyer is not paying attention.

4 I just asked a question, I don't know if you heard
5 it. When she was on InfoWars, she used "Gina," and she said
6 yes.

7 THE WITNESS: Yeah.

8 THE COURT: And when you slipped and you didn't say
9 Turbo, you said Ed?

10 THE WITNESS: Yes.

11 THE COURT: You didn't say Ed Badalian at such and
12 such address and such and such place?

13 THE WITNESS: No. That's why I didn't understand why
14 I was getting attacked by this girl, because I'm, like, big
15 deal.

16 BY MR. HELFEND:

17 Q. And you were only attacked -- well, you were never attacked
18 by Ed when you did that though?

19 A. No.

20 Q. And the same girl -- is the same girl -- and I'm showing
21 you --

22 (Off-the-record discussion between Mr. Helfend and
23 government counsel.)

24 I'm just showing Government Exhibit 607, where this --
25 this is the same person that -- giving you a hard time after

1 you used the name Ed online?

2 A. Yes, sir.

3 Q. Okay. Just so we know, her name is not -- her last name is
4 not BusyBee, is it?

5 A. No.

6 Q. And her first name is not Bee, is it?

7 A. No.

8 Q. So she uses a pseudonym. She uses another name instead of
9 her real name?

10 A. Yes. However --

11 Q. You know who that is?

12 A. Yes.

13 Q. Okay.

14 MR. HELFEND: Nothing further, Your Honor. Thank
15 you.

16 THE WITNESS: Thank you.

17 THE COURT: All right. Go ahead, Mr. Mariano.

18 REDIRECT EXAMINATION

19 BY MR. MARIANO:

20 Q. A few items I wanted to clarify.

21 A. Yes, sir.

22 Q. We've gone through this a few times. I think we're
23 reaching the end.

24 The meeting where the note was written --

25 A. Right.

1 Q. -- the note in Government Exhibit 521. Do you know whether
2 DJ, Ed, and Jeff were all coming back from a long road trip?

3 A. I know that they were all coming back, yes.

4 Q. From a long road trip?

5 A. Yes.

6 Q. And you understood that the reason that they were coming
7 was to talk about January 6th, right?

8 A. Yeah, and it was a coincidence that we all saw each other
9 there because nobody planned it.

10 Q. Do you recall approximately when you -- you personally were
11 arrested in this case -- or, in your case?

12 A. Yeah, I was arrested on January 19th. The FBI came and
13 raided me in the morning. Yeah.

14 Q. Now, there was some discussion about antifa. I think it
15 might have been you who mentioned that nobody was dressed like
16 antifa?

17 A. Yeah, nobody.

18 Q. Now, what do you mean by that? What does dressing like
19 antifa mean?

20 A. Well, normally they wear the black and -- when they came to
21 our rallies, they would dress in black. You would know antifa
22 because they always wear a mask and --

23 Q. Now, I'm happy to pull up the video again. The incident
24 where Mr. Badalian pulls the rioter off the window, was that
25 individual wearing all black?

1 A. Oh, no. No.

2 Q. On cross-examination it was brought up that Mr. Badalian
3 told you that he -- that the two of you should go to law
4 enforcement to get ahead of things. Do you remember that?

5 A. Yes.

6 Q. Do you recall approximately when those discussions were?

7 A. It was after January 6th.

8 Q. And what was it that you understood Mr. Badalian wanted to
9 get ahead of?

10 A. Well, I was getting threatened to be arrested all the time
11 from the community that was against me. They'd called me every
12 morning and say: Have your orange juice ready, see you NT.
13 Constantly. You're going to prison. We reported you, there's
14 reports of you. I was scared. I was literally sweating
15 bullets every day. Yeah.

16 Q. Shortly after January 6th and the following days, what did
17 you understand about the existence of a Federal investigation
18 into the conduct of January 6th?

19 A. Well, it hit me when I was in the airplane and people were
20 getting alarmed because the FBI list was people I knew and --

21 Q. On the airplane going back from D.C.?

22 A. Yeah, I remember.

23 Q. And approximately what date was that?

24 A. Is it the 7th?

25 Q. So the next day you knew that there was a Federal

1 investigation?

2 A. Yeah.

3 Q. Did you and Mr. Badalian actually ever go to law
4 enforcement together?

5 A. No, we did not.

6 Q. And did Mr. Badalian ever tell you that he went to law
7 enforcement?

8 A. No.

9 MR. MARIANO: Thank you, Your Honor. Nothing
10 further.

11 THE COURT: All right. Can the witness be excused?

12 MR. MARIANO: I apologize, Your Honor. I think I did
13 this earlier for the record. I wanted to make sure I had moved
14 to admit Government Exhibit 607 and 608.

15 THE COURT: All right. I think they were admitted
16 without objection earlier.

17 MR. HELFEND: I have a few questions.

18 THE COURT: You have redirect (sic) based on that?

19 MR. HELFEND: Yep.

20 THE COURT: Okay. Go ahead.

21 MR. HELFEND: Yep.

22 RECROSS-EXAMINATION

23 BY MR. HELFEND:

24 Q. So when you went to InfoWars -- we just learned about your
25 knowledge of an FBI supposed investigation. Ed never told you:

1 Don't use my first name because there is a pending FBI
2 investigation, did he?

3 A. No.

4 MR. HELFEND: Nothing further.

5 THE COURT: All right. Can this witness be excused?

6 MR. MARIANO: Nothing further from the government.

7 THE COURT: All right. Mr. Helfend? Mr. Helfend?
8 Can I get your attention? Can we excuse this witness, please?

9 MR. HELFEND: Yes.

10 THE COURT: All right. Thank you very much. You're
11 excused.

12 THE WITNESS: Thank you, Your Honor.

13 MR. MARIANO: Your Honor, may I approach and retrieve
14 Government Exhibit 801?

15 THE COURT: Yes, you may.

16 MR. MARIANO: I'll take the bag and the book.

17 And, Your Honor, I recognize that Government's
18 Exhibits 607 and 608 were new. We do have copies for the
19 bench, if that would be appropriate.

20 THE COURT: All right. I think if you give them to
21 Mr. Haley, that would be fine. The better thing, though, would
22 be to transmit them in electronic form to him and then we can
23 upload them with all the other ones that we have.

24 MR. MARIANO: We will do that as well.

25 I know Ms. Paschall has our next witness, so I'll let